

C. J. WILLIAMS
J. H. B. B.
THE
INDICTMENT, ARRAIGNMENT,
TRYAL, and JUDGMENT, at large,
Of Twenty-nine

REGICIDES,

THE

Murderers

Of His Most

SACRED MAJESTY
King CHARLES the First,

Of Glorious Memory,

Begun at *Hicks's Hall* on *Tuesday* the Ninth of
October, 1660, and Continued at the *Sessions-*
House in the *Old-Bailey* until *Friday* the Nine-
teenth of the same Month.

Together with a SUMMARY of the Dark
and Horrid Decrees of those *Cabbalists*, Prepa-
ratory to that *Heinous* Fact.

Expos'd to View for the Reader's Satisfaction, and
Information of Posterity.

To which is added,
Their Speeches. With a Preface, giving an Account of
the Rise and Progress of Enthusiasm among us, and
in other Parts of *Europe*; with the Characters, and
Answer to the Tenets of the several Persons Executed.

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THE PREFACE.

IT was thought convenient to preserve this Book of Tryals and Speeches from being utterly lost for want of a New Impression, because it may be of great Use to Men of all Parties and Professions: For here they will see by the clearest Light, how sad a Thing it is to be abandoned to a Spirit of Enthusiasm, and be wholly acted by the Impulse of a false, misguided Zeal, which carries Men headlong to the Commission of the most enormous Sins, and leaves them impenitent, and past feeling of any Guilt or Remorse, and so brings them to Destruction both of Body and Soul.

St. Peter advises Christians to take Care that *none of them suffer* * *as a Murderer, or as a Thief, or as an Evil-doer, or as a Busiebody in other Mens Matters.* And St. Austin tells some Factionous People of his Time†, that “True Martyrs, who deserve that Honourable Name, are not such as suffer for their Irregularities, and impious

* 1 Pet. 4. 15. † Epist. 50.

The Preface.

“ Violations of Christian Unity, but only such as are per-
 “ secuted for Righteousness Sake. For you may say that
 “ *Hagar* suffered Persecution at the Hands of her Mi-
 “ stress *Sarah*, but yet the Mistress who inflicted it
 “ was Righteous, and the Maid who suffered it was
 “ Unrighteous. So Two Thieves suffered the same
 “ Pains of Crucifixion with our Blessed Lord; but the
 “ Cause of his and their Suffering was vastly different.
 “ If that must needs be the True Church which suffers
 “ Persecution, and not that which inflicts it, let them
 “ ask the Apostle what Church *Sarah* represented,
 “ when she afflicted her Maid. He tells them she re-
 “ presented the Heavenly *Jerusalem*, which is Free,
 “ and is the Mother of us all; that is, she was a Type
 “ of the True Church of God. Though, if all Things
 “ be rightly considered, the Maid persecuted the Mi-
 “ stress more by her proud Resistance, than the Mi-
 “ stress did the Maid by her Severity of Punish-
 “ ment.

But in these later Ages we have a New Sort of A-
 postles and Fathers risen up among us, who have re-
 vealed a New Gospel quite contrary to the Old One;
 and teach us that if a Man be a Murderer, or a Thief,
 or an Evil-doer, or a Busybody in other Mens Mat-
 ters, yet if he employ his Wickedness for the Service
 of the *Apostolick See*, or in Maintenance of the *Good*
Old Cause, this consecrates his Villany, and entitles
 him to a Place in the Kalendar of Saints and Martyrs.
 Thus, if you will go to the *Vatican*, you may see
 St. Oldcorn and St. Garnet, who were hanged at Tyburn
 for the Gunpowder-Plot: And if you go to the *Par-*
liamentum Beatum, as Mr. Baxter calls it, that is, the
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Paradise of Phanatics, you will certainly find there all those who did actually Blow up the Church and State of Three Kingdoms, with a Prodigious Expence of Blood and Treasure; and you may be sure the *Regicides*, who did the greatest Work, have not the least Rewards of that Place.

The Collector and Publisher of their Speeches and Prayers affirms, * that *they had the Gracious Presence of the Lord with them* at the Time of their Execution; and that *the Cause of their Sufferings from Man was such as they had no Cause to be ashamed of*. And they constantly say the same Things in their Dying Speeches and Prayers; so that in their own and their Friends Opinions, they died Martyrs for a good Cause.

But is it not a lamentable Thing to consider that Men should be given up to such a Reprobate Sense and Strong Delusion, as to plead Conscience and the Fear of God for doing the worst of Things? Is it not horrid to hear them invoke the Name of Christ with a monstrous Confidence, when they are doing the Works of the Devil, who was a Murderer from the Beginning? Can there be a greater Dishonour done to the Christian Religion, than to justify Rebellion, Rapine, and Bloodshed from the Principles of it? Are those who are defiled with such Black Crimes as these *the Elect*, and the *Godly Party*? And would it not tempt a Man of Common Humanity and Honesty to change the Stile of his Prayers, and beg rather to be shut out of

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Heaven, (as the poor *Indian* among the *Spaniards* did,) than be confined to the Company of such Saints?

The Prophet *Isaias* † denounces a Woe against them *who call Evil Good, and Good Evil; who put Darknes for Light, and Light for Darknes; who put Bitter for Sweet, and Sweet for Bitter.* And in the New Testament we read of some whose *Mind and Conscience is defiled, who are led by the Spirit of Error, who think they do God good Service when they Murder his Servants.* But is Christ at all pleased with such Sacrifices as these Men offer him? Is he at all moved with their vehement Invocations of his Name in their Prayers and Preachings? Is he so liberal of his Comforts to them when they suffer for the foulest Iniquity, and call it a Cause not to be repented of? By no Means. Far be it from us to think that he is any Patron or Comforter of Impenitent Sinners. And that we may not be scandalized, and think the worse of our Religion for the Sake of such unworthy Professors of it, he has told us beforehand what their Doom shall be, *That after all their bold Appeals to him, and presumptuous Claims of his Grace and Favour, he will drive them out of his Presence as Workers of Iniquity.*

But let us examine a little into this Mystery of Enthusiasm, and see by what Means People arrive to this high Degree of Infatuation, and what are the several Steps which they take towards it.

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The main Foundation of it is, no doubt, a large Stock of Pride, and a singular Fondness which Men are apt to have for their own Sentiments and Opinions. Nothing is more common than for Men of this Spirit to run into Parties and Factions, and struggle hard for the Superiority. Whatever is proposed to them, is sure to meet with the last Opposition, if they were not consulted in the first Place, and made Principals in the Design. 'Tis no Matter how rational it is, or how useful to the Publick, if it turns not to their particular Advantage or Reputation, they will endeavour to serve themselves of it, by crying out against it. Thus they first get into By-ways, which when once they are engaged in, they think it very dishonourable to relinquish; especially if they have drawn a great many to their Party, and are much consider'd by them. Then it becomes their Interest to go forward, and to encrease and multiply as fast as they can. In order to this they have found it the most Successful Way to set up for Demagogues and Teachers of the common People, whom they have prevail'd on by such Arts and Methods as these. First, they have declaim'd against the Faults of their Superiors, with great Freedom and Severity: Which has brought the People to esteem them as Men of singular Zeal, Integrity, and Holiness, Godlike Detesters of all Sin and Wickedness, and even equal to the Ancient Prophets and Apostles. In the Second Place, they have made it a Rule to impute all Reigning Vices and Corruptions to the Defects in the Established Church-Government; by which Means they have added to their Character of Sanctity and Virtue, the Reputation

tion of being wiser than the Church-Governours, and fitter Men to be entrusted with the Care of the Flock. The Third Step they have taken, is to Print a Multitude of Books, and get them into the Hands of the People; in which they take all Opportunities to lessen their Esteem and Love for the Church, and to encline them to their own Sect, which they fail not to adorn with all the Glorious Titles that may be. A Fourth Artifice which they have used, is to infuse such Notions and Opinions into the Minds of the People, that when they read the Scripture, they may think every Thing sounds to the Advantage of their own Sect, and to the utter Condemnation of all that are out of it. There is no Doubt but that the People, by being accustomed to hear these Things inculcated with great Appearance of Piety and Zeal, may be so far engaged on the Side of any Errour, as to Espouse it very heartily; and so strangely prejudiced against the contrary Truth, as to abhor it, and think it a damnable Sin. Most certain it is, that those who have drunk of this Cup of Enthusiasm, are not capable of hearing a Man of a contrary Opinion offer any Thing against their Errors: The more Reason or Learning he is Master of, the more they suspect him, and discredit his Arguments: *Like the deaf Adder, which refuseth to hear the Voice of the Charmer, Charm he never so wisely.* And I am verily perswaded that the Teachers themselves do sometimes lose a Sense of those Errors, which they once saw plainly enough when they were more Impartial; and by teaching them to others, they are at last confirm'd in them themselves. As we say, *One may tell a Lie so often till he believes it himself.*

'Tis well known to all, who are acquainted with the History of the Reformation, how over-zealous the Disciples of such Teachers were in casting out Popish Superstitions, how far they ran into the other Extream, and from abhorring Idols, fell to committing Sacrilege; what Havock they made of Churches, and how they pillaged the Sacred Vessels and Furniture. But in *Germany*, that great Hive of Fanaticks, there sprung up a Set of Men, of so singular a Zeal for a thorough Reformation, that all the rest who labour'd in this Work were but lukewarm in Comparison of these. I believe they will be found much the same in Principles and Practice with the Enthusiasts of this Nation, especially such as are represented in the following Book: And therefore I shall give you their Character at large, as I find it drawn by *Guy de Bres*, a *French* Author, in his History of the Anabaptists.

These Men making it a general Rule to themselves, that whatever was not the exprefs Law of Christ, had Antichrist for its Author; and whatever Antichrist, or his Adherents, did in the World, was to be undone by all true Christians; they concluded, that many Things in Religion which others had suffer'd to remain, were not to be endured, but utterly laid aside. Hereupon they made sad Complaints, that tho' People had begun to pull down the Kingdom of Darknes, yet they did not bring forth Fruits worthy of Repentance; and that if Men would repent as they ought, they must purge the Truth from all Manner of Evil, that so there might be a new Earth, wherein Righteousness only

only should dwell. A Man's Repentance, they said, must appear by ordering his Life in all Things contrary to the Customs and Orders of the World. Such as were possessors of Riches or Honours, they exhorted to part with them, as a Proof of their unfeigned Conversion to Christ.

They call'd upon Men to Fast often, to Meditate much upon Heavenly Things, and to hold Conferences with God in Prayer with such Fervency, as might even force him to hear them. Where they found Men observe Civility and Decency in their Diet, Dress, or Furniture, they reprov'd them as Carnal, Earthly-minded Men. Any Word which was not spoken with great Severity and Gravity seem'd to pierce them like a Sword. If any Man was pleasant in their Company, they would with Sighs repeat our Saviour's Words, *Woe be to you which Laugh now, for ye shall Mourn and Weep.* They delighted to be always in Trouble, and thought those Men in a most dangerous Case, who led quiet Lives.

They so much affected to cross the ordinary Custom in every Thing, that on Days when other Men put on their best Dress, they would be sure to appear in their worst. They thought it a kind of Prophaneness to call the Week-days by their ordinary Names, and therefore distinguished them by their Order, the First, Second, Third Day.

They boldly asserted that they only had the Truth, and that since the Apostle's Times it was never sincerely taught before. And that they might restore the Gospel

pel to its Purity, they begun to controul the Preachers of it, for laying so much Stress upon their outward Ministry; whereas, in Truth, when it is said, that Faith comes by Hearing, this is not applicable to the Word, as Read or Preached, but as it is ingrafted in us by the Power of the Holy Ghost. However, they seem'd to Value the Bible so much, that in Disputes about their Opinions they would admit of no other Allegations but the Sacred Text: Which they thought deserved to be studied so much, that, at the Perswasion of one of their great Prophets, they brought all other Books which they had in their Custody, and set them publickly on Fire. When they and their Bibles were alone together, whatever Strange, Phantastick Conceit came into their Heads, they perswaded themselves that the Holy Spirit suggested it. Every Day did they Broach some new Thing, never heard of before. Which restless Levity they interpreted to be their growing up to Spiritual Perfection, and proceeding from Faith to Faith. By this Means the Differences among them grew to be almost infinite; for there was scarce a Man of them, whose Brain was not the Forge of some new Mystery peculiar to himself. Now though these Differences bred fierce Contentions among themselves, yet when they were to defend their common Cause against the Adversaries of their Faction, they had a Salve for every Sore, the Sounder in his own Perswasion excusing **THE DEAR BRETHREN** who were not so far enlighten'd, and professing a charitable Hope of the Mercy of God towards them, though they differ'd from him in some Things.

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Their Way likewise was, to magnifie their own Teachers excessively, as Men whose Calling was of God: But for all others, they term'd them disdainfully *Scribes* and *Pharisees*, and did all they could to keep the People from hearing them. As for the Sacraments, they held that *Baptism* Administer'd in the Church of *Rome* was an Execrable Mockery, and no *Baptism* at all. The Custom of using Godfathers and Godmothers at Christenings they scorn'd. *Baptism* of Infants, though own'd by themselves to be as Ancient as the Apostolick Age, yet was wholly laid aside, because there is no Command in the Gospel which says, *Baptize Infants*; but the contrary, *Go Preach and Baptize*, intimating that Teaching must go before *Baptism*. Their receiving the Eucharist was (according to our Lord's Example) after Supper: And for avoiding all that Superstition which had been grounded upon the Mystical Words of Christ, *This is my Body, this is my Blood*, they thought it not safe to mention either Body or Blood in that Sacrament, but used only these Words, *Take, Eat, declare the Death of our Lord. Drink, shew forth our Lord's Death*. In Rites and Ceremonies they utterly abhorred Conformity with the Church of *Rome*: For which Reason they would endure any Torment rather than observe the Solemn Festivals which others did, because Antichrist (they said) was the Author of them.

In Point of Civil Government their Principle was, That Christ should have the Dominion over all; That all Crowns and Scepters should be laid at his Feet; That no other should Reign over Christians but he; That his Discipline

pline should keep them in Order ; his Spiritual Sword, that is, Excommunication, be the only Weapon to Correct them. To this End they used their utmost Endeavours to throw down the Seat of the Secular Magistrate, because Christ hath said, *The Kings of the Gentiles Exercise Lordship over them, but it shall not be so with you* : To abolish the Execution of Justice, because he hath said, *Resist not Evil* : To make all Oaths, which are the necessary Means of Judicial Tryals, unlawful, because he hath said, *Swear not at all*. Finally, They were for establishing a Community of Goods, because Christ by his Apostles has given the World such an Example, that Men might excel one another, not in Wealth, the Pillar of Secular Authority, but in Virtue.

These Men at first were only pitied for their Errors, and passed in the World with very little Opposition; for the great Appearance of Humility, Zeal, and Devotion, which was in them, was allow'd to be a Demonstration of their innocent Meaning. *Luther* interceded for them with *Frederick*, Duke of *Saxony*, that they might be favourably treated in his Dominions. But by this merciful Toleration they got more Strength than was safe for the Government. They had their secret Meetings and Assemblies in the Night, at which Times Thousands of People flocked about them. And they had these effectual Means to allure and retain such great Multitudes: First, A wonderful Ostentation of Godly Zeal, wherewith they seem'd to be ravished and transported in every Thing they spoke. Secondly, Constant Declaimings against Sin, and Professions of Sincerity, which the People thought to be very real
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in them, because they were always filling their Ears with Investives against their Lawful Governours, both in Church and State. Thirdly, Their Bounty to the Poor, whom they were very forward to relieve, and by that Means easily drew after them. Fourthly, Their tender Commiserations of such as were oppressed, over whom they would pour out Floods of Tears, complaining that no Regard was had to them, that their Goods were devour'd by wicked Cormorants, their Persons despised, their Liberty taken from them, and that it was high Time for God to hear their Groans, and send them Deliverance. Lastly, A cunning Art which they had to sooth up their Followers, by appropriating to them all the favourable Titles, the good Words, and gracious Promises, in Scripture; and by throwing all the Threatnings, Maledictions, and ill Characters, on the Heads of those that opposed them. By these Means they won the Favour of the People, and were Applauded and Magnified by them, as Men of God, and true Prophets. If any such Prophet, or Man of God, were punished by due Course of Law for Felony, Treason, Murder, or any other Crime which he was found Guilty of, the deluded People were as much concerned for him as if St. Stephen had suffered Martyrdom among them, and lamented that God deprived them of his Dearest Servants: For they were fully persuaded that whatever they did, it was in Obedience to the Will of God.

But to proceed from Speculation to Practice; these Men considering that however great their Numbers were at present, yet long Wars would in Time waste them away, if they should meet with Powerful Opposition, they

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they began to think whether it might not be the Will of God, that they, for their speedy and mighty Increase, should do the same Thing as the People of *Israel* were Permitted to do. Very desirous they were to have it so; and this very Desire inclined them to believe it Lawful, and put them upon gathering Reasons and Arguments for it. Nothing seemed clearer to them than that they were the *New Jerusalem*, so often spoken of in Scripture, and that the *Old* did by Way of Type signifie what they should be and do. Here they drew in a World of Matter, by applying all Things to their own Company, which are any where spoken concerning Divine Favours and Benefits bestowed upon the Old Commonwealth of *Israel*; concluding, that as *Israel* was delivered out of *Egypt*, so were they out of Spiritual *Egypt*, the Bondage of Sin and Superstition: As *Israel* was to root out the Idolatrous Nations, and to plant in their Room a People that feared God, so it was his Will that these New *Israelites*, under the Conduct of other *Joshua's*, *Sampson's*, and *Gideon's*, should perform a Work no less Miraculous, in destroying the Wicked from the Face of the Earth, and establishing the Kingdom of Christ with perfect Liberty. And therefore as one Man of the *Israelites* might have many Wives, to supply the Losses which they should sustain in War, so it was Reasonable to conclude, that for the Necessary Propagation of Christ's Kingdom, the Lord was content to allow as much to them.

In short, these Men who had nothing in their Mouths at first but Mortification of the Flesh, came at length to think they might lawfully have their Six or Seven Wives apiece. They who at first thought Judgment

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and Justice itself to be merciless Cruelty, were brought to think their own Hands sanctified by being imbrued in Christian Blood. They who at first were for beating down all Dominion, and would not endure so much as the Office of a Petty Constable, had at length both Consuls and Kings of their own Setting up. And they who at first would not allow any Man to go to Law for the Recovery of his Goods, when they were injuriously taken away, or kept from him, did now think nothing more acceptable to God than to strip their Adversaries of all that they had, and enrich themselves with their Spoils. Which Violence when it was laid to their Charge, they had a ready Answer, That now the Time was come that our Saviour's Promise must be fulfilled, *The Meek shall inherit the Earth*; and that they had the same Title to other Mens Goods, which the Righteous *Israelites* had to the Goods of the *Wicked Egyptians*,

By this Account of the Fanaticks in Germany, you may observe what a Sly, Subtle Spirit it is which acts these Men; how Innocent and Heavenly it seems at first; how it hides itself in the Clouds of Dissimulation and Hypocrisy; how much it pleads for Lenity and Indulgence, even against Legal and Necessary Punishments; till by these Arts it has got Room to extend and strengthen itself, and then it breaks out like the Sea, and overturns all Religion and good Government with the utmost Fury. In the same Variety of Shapes has this Spirit walked among us. At first it appeared like a Lamb, very gentle and inoffensive, and was thought worthy of Pity and Protection; but when it was grown up, it proved a Roaring Lion, and tore out the

the Hearts of those who had nourished it. I will not detain you with an Account of its whole Progress since it was first imported hither from *Germany*; but only take it as it was in those unhappy Times, when its Instruments (such as are the Subject of this Book) were Publick Actors in the Affairs of this Nation. In Forty-one they did remonstrate that they did not purpose or desire to abolish the Church-Government, and disclaimed all Intentions of absolving Men from that Obedience which they owed to his Majesty, whom they professed they knew to be entrusted with the Ecclesiastical Laws as well as the Temporal. In Forty-two they declared that they intended a Due and Necessary Reformation of the Government and Liturgy of the Church, and to take away nothing in the one or in the other, but what was Evil, and justly Offensive, or at least Unnecessary and Burdensome. In Forty-three they professed that their Army was designed to defend the King's Person, Honour, and Dignity, and to hinder all Change in Religion; they protested as in the Presence of God, that they had no Intentions to offer Violence to his Majesties Person, or to hurt his just Power, or to destroy his Monarchy. In the Third Article of the *Solemn League and Covenant* they swore to preserve and defend the King's Majesties Person and Authority, in the Preservation and Defence of the true Religion; and that they had no Thoughts to diminish his just Power and Greatness. And in Forty-six they declared, that their sincere Intentions were to uphold the Ancient Fundamental Government of this Realm by King, Lords, and Commons. Now whether these were not Rank and Perfidious Hypocrites, let the World judge, when instead of reforming the Church

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Government, they abolished it; when instead of revising our Service-Book, they quite removed it; when in their *Negative Oath* they afterwards swore neither directly or indirectly to adhere unto or assist the King; when they took away the Oaths of Allegiance and Supremacy, and proclaimed such Traitors as stood for them; when they cashiered the Noble House of Peers; when they fought against the King's Person, attempted the shedding of his Sacred Blood, and at last drove him to the Scaffold; all their Remonstrances, Declarations, Protestations, Promises, Vows, and Oaths, to the contrary notwithstanding.

Presently after the happy Restauration of the Royal Family and Government, some of the most Notorious Regicides were seized on, and tried for the Murder of their Prince, and received the just Reward of their Treasons. Their Tryals were immediately collected together, and published by Authority in the same Year. Afterwards, when the Government was pestered, and in Danger to be overturned again by Men of the same wicked Principles, about the Time of the Popish Plot, this Book of Tryals was reprinted for the Sake of the Arguments which the King's Learned Council used against the Rebels, as being thought the best Defence of Monarchy. The Speeches and Prayers stole abroad in 1661, but were soon publicly reprinted with Animadversions, under the Title of *Rebels no Saints*; and came out again in a Third Edition, with some Account of the Regicides, their Authors, towards the latter End of King *Charles* the Second's Reign. We have for the Compleating of our New Edition, and the Satisfaction of the Curious, collected some short Memoirs of the Birth,

Birth, Education, and Quality, of these Men, as they are transmitted to us by good Writers, who lived in the same Times.

Colonel *Thomas Harrison* was the Son of a Butcher or Grasier at *Newcastle Under-line* in *Staffordshire*. After he had been Educated in some Grammar Learning, he was placed with one *Hulk* or *Hulker*, an Attorney in *Cliffords-Inn*, and when out of his Time became a Kind of Petty-fogger: But finding little Profit arise from that, he took Arms for the Parliament at the Breaking-out of the Rebellious War; and by his Enthusiastical Preaching, and great Pretence to Piety, he so far recommended himself to the deluded Army, that he was advanced from one Post to another, till he became a Major. He was *Cromwell's* great Friend and Confident in all his Designs. When the Lords and Commons were resolving that the Treaty with the King in the *Isle of Wight* was a Ground for Peace, this Man brought Forces down to the Door of the House of Commons, and suffered none to go in but such as renounced their Allegiance and Duty to their King, and declared against the Vote which had been passed for Peace: He was the Person that went to *Hurst-Castle*, where the King was Prisoner, to require the Governour to deliver up his Majesty to a Party of Horse, who should be ready to convey him to *Wind-sor-Castle*, and so to *Westminster*, in order to his Tryal. He was one of the Committee that sat in the *Exchequer* to consult about the Manner of Trying the King; and when some found Fault with the Length of the Impeachment, he was against Shortening it, and said, *Gentlemen, it will be good for us to blacken him*

what we can; pray let us blacken him, or Words to that Purpose. What further Part he acted in the Murther of the King will appear from his Tryal.

For these his Services he was soon after made a Colonel, and then a Major-General, and Governour of *Wales*; where, with the Assistance of his Chaplain *Vavasor Powell*, he endeavoured so to model the Countrey, that none but Enthusiasts and Hot-headed Persons should have the Instructing of the People.

At length, when *Cromwel* was labouring to make himself Sole Governour, he left him with great Scorn and Indignation, and became the Ringleader of that Dangerous Sect called *the Fifth - Monarchy - Men*; and submitted to be Rebaptized to gain the Anabaptists to his Party.

About the Time of the King's Restauration he was very busie in raising Forces to oppose it; but was prevented in his Design, and sent Prisoner to the *Tower*, and from thence removed to *Newgate*, and so brought to his Tryal; where how he carried himself you will find in the Account of it.

At the Time of his Execution it is said he took a strong Cordial to heighten his Spirits, and endeavour'd to put on smiling Looks, and appear undaunted before the Spectators; but the Excessive Sweat which run down, and the strange Trembling and Shaking of his Joints, discovered him to be in no small Agony.

Colonel

The Preface.

Colonel *Adrian Scroop* was descended of a good Family in *Buckinghamshire*. He was a great Puritan, and Stickler against Episcopacy, which made him take Arms against the King.

Though he was no Parliament-Man, yet he was drawn in, as he pretended, by *Oliver Cromwell*, to be One in the Black List for Trying the King.

Little Mention is made of him during the Time of *Cromwell's* Usurpation. When the King was restored, and had set forth a Proclamation that all his Father's Judges should appear, *Scroop* surrendered himself to the Speaker of the House of Commons, and a Vote past the House, that he should be only fined a Year's Value of his Estate: But soon after happening to discourse with *General Brown*, he seem'd to justify the King's Murther; for which he was complained of to the House of Commons, and wholly excepted out of the General Pardon.

Mr. John Carew was Born in *Cornwal*, of a very Ancient Family there; but had the Misfortune to be Educated in Factionous Principles, and was, like *Harrison*, a Fifth-Monarchy-Man, as appears in his Tryal Page 29. This made him an utter Enemy, not only to the King, but to all Government in a single Person, so that *Oliver's* Usurpation was as hateful to him as the Royal Sovereignty which he had destroyed.

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You find in his Tryal, when he was charged in his Indictment to have acted as not having the Fear of God before his Eyes, but being led by the Instigation of the Devil, that he pleads Error to the Indictment, saying, *That what he had done was not in such a Fear, but rather in the Fear of the most Holy and most Righteous Lord*; thus blasphemously making God the Author of his horrid Sin.

When he was carried to Execution, 'tis said he prepared himself for it by drinking Three Pints of Sack, which caused a more than ordinary Flushing in his Face, and put him into an Excessive Sweat.

Mr. *Thomas Scot* was Born of obscure Parents in *Buckinghamshire*: He was by his Friends placed in *London*, and came in Time to be Partner with a Brewer in *Bridewell* Precinct. By the Interest which he made in a Borough of his Countrey, he got himself chose Parliament-man, which gave him an Opportunity to do much Mischief.

For being a violent Enemy to Episcopacy and Monarchy, he had now a Privilege to strike at them both by long Speeches and Harangues which he often made in the House. And he made no small Advantage by their Ruin; for upon the abolishing of Episcopacy, he procures the *Palace at Lambeth* for his own Mansion-house; and when there was a Sale of the Crown-lands at *Worcester-house* in the *Strand*, he got in his Son-in-law to be one of the Trustees and Managers of that Affair.

I cannot injure his Memory in saying, that he was a furious Rebel against his King, since he himself gloried in it, and openly in the Parliament-house declared, that *he hoped he should never repent of it, and desired that when he Died, it might be Written upon his Tombstone, Here lyes Thomas Scot, who adjudged to Death the late King.*

He was one of those Members which constituted themselves a Council of State; he served them in the Nature of Secretary; he managed all their Intelligence Foreign and Domestick; he kept continual Spies upon all Printers and Booksellers, by which Means all true Intelligence was suppressed.

Many Things did he attempt to hinder the Restoration of the Government in Church and State, which when he found coming on with an irresistible Force, he fled beyond Sea; but was soon seized on in *Flanders*, and sent Prisoner into *England*, where he suffered the Punishment he deserved; but how obdurately and insensibly, you'll find by the Account of his Tryal and Execution.

Mr. *John Cook* was a Man of mean Birth and inconsiderable Fortune, but of good Natural Parts. The first Mention we find of him is, that he was a Barrister of *Grays-Inn*, where having but small Practice, it made him the more ready to fall in with the Regicides, and make one in the *High Court of Justice*.

The

The Pretended Parliament, after they had constituted that Court, directed an Order to this Mr. Cook, together with *Ask* and *Dorislans*, to draw up a Charge against his Majesty; which, when they had done, this Cook subscribed it in the Name of the Commons of *England*, and became Solicitor for the Regicides against the King; in which Office he behaved himself with great Virulence and Insolence towards his Majesty, as it was proved upon him in his Tryal.

When some of his Brethren in the Law express'd their Surprize to hear that he was engaged in such a Cause, his Answer was, *I acknowledge it a very base Business, but they put it upon me, I cannot avoid it. — I am serving the People; — The King is as Wise and Gracious a Prince as any in the World, but he must Die, and Monarchy must Die with him. — You will see strange Things, and you must wait upon God.* This discovers what Conscience he acted with, and what Spirit he was of.

For this and other Services his Masters conferr'd on him 300 *l. per Annum* in the Kingdom of *Ireland*, and made him a Chief Justice there; in which Place he continued several Years, and Preached about the Countrey, and was a great Favourer of the Anabaptists.

But neither the Height of his Preferment, nor the Change of his Countrey, could deliver him from the Lashes of a troubled Conscience: Tho' he was a Judge he could not absolve himself, but upon the very Bench
would

would fall into strange Sighs and Groans, and break out into this Lamentation, *Ab Poor Charles! Poor Charles!* shewing thereby how much he was oppress'd with the Guilt of his Innocent Blood. But whether he express'd the like Penitence at his Tryal and Execution, I leave to the Reader's Consideration.

Hugh Peters was the most Notorious Incendiary of all the Rebels. The Place of his Education (as 'tis said) was *Cambridge*; after some Time spent there he turned Itinerant Preacher, settling in no Cure, but was sometimes in *New-England*, sometimes in *Holland*, and sometimes in other Parts. It appears in his Tryal, from his own Account, that he was sent over from *New-England* hither, to stir up and drive on the Rebellious War, which he ceased not to do, by uttering the most bitter Invectives against the King and Bishops, by calling the Rebellion *the Lord's Cause*, and by telling the Soldiers that *Heaven was full of Redcoats that had been kill'd in it*. It would be too tedious to relate the many ridiculous and prophane Comparisons which this Pulpit Buffoon (as he was justly called) made, and his absurd and scandalous Interpretations of Holy Scripture, which commonly set the Auditors a laughing.

In short, he was a meer Epicure, a Swine in his Morals, and a False Prophet in his Doctrine; and so both by his Life and Preaching he taught Men the Way to Damnation.

It is reported that at the Time of his Execution he was in great Amazement and Confusion, sitting upon the

the Hurdle like a Sot all the Way he went, and either plucking the Straws, or gnawing the Fingers of his Gloves. He ascended the Ladder, not like a Minister, but like some ignorant Atheist, not knowing what to say, or how to carry himself. After he had stood stupidly for a while, he put his Hand before his Eyes, and prayed for a short Space; and the Hangman often reminding him to make Haste by checking him with the Rope, at last very unwillingly he was turned off the Ladder. Solicitor *Cook*, who suffered with him, wished he might have been reprieved for some Time, as being not prepared, or fit to Die.

Mr. *John Jones* came of a mean Family in *Wales*, and was a Man of no Reputation before the War. He was sent up to *London* to be put to a Trade, but was placed as a Serving-man to a Gentleman, and afterwards was preferr'd to Sir *Thomas Middleton*, Lord-Mayor of *London*, with whom he lived many Years in the same Capacity.

At the Beginning of the War he run with the Rebels, and had a Captain's Place of Foot for his first Post; but his Factious Spirit recommending him to *Cromwel's* Party, he was made a Member of Parliament, and an Instrument in all the Plots and Treasons against the King: For a Reward of which Service he was raised through several Successive Employments, till he was made one of the Commissioners of Parliament for the Government of *Ireland*. This Office he discharged with great Tyranny, persecuting all that were contrary to his Principles, raking up Old Laws concerning

The Preface
concerning the Brewing of Ale and Beer, plaguing all the Houses in *Dublin* that Sold Drink, and not suffering any one to enjoy a Publick Employment who was seen to go into an Alehouse; so that to go into an Alehouse or Regular Church were Crimes equally Dangerous and Punishable.

His Favourite Chaplain was one *Mr. Patients*, formerly a Stocking-footer in *London*, whom he appointed to Preach every *Sunday* before the Council of *Ireland* in *Christ-Church Dublin*. After some Time he was recalled, and Married *Cromwell's* own Sister, in Hopes of getting more Preferment: But *Oliver* Dying, and his Hopes failing him, he made it his Business to unhinge his Cozen *Richard's* Government. From henceforward his Fortune played with him, one while making him a Governour, and then a Cypher, till he ended his Course as the forementioned Regicides had done.

At his Execution he ingenuously acquitted the King, as having done nothing but the Part of a Loving Son to a Father: and the Court, as acting by Law according to the best of their Understandings.

Gregory Clement is hardly worth mentioning: He was at first a Merchant, but failing in that, he sought to thrive by a New Trade in Bishops-lands, wherein he got a considerable Estate. He was turn'd out of the Rump-Parliament for lying with his Maid at *Greenwich*, but was taken in again when they were restored after *Oliver's* Interruption. His Guilty Conscience

science, and his Ignorance together, would not suffer him to make any Plea at the Bar, or any Speech or Prayer at the Gallows.

Daniel Axtel was a Grocer's Apprentice in *London*; when the Rebellion broke out he run along with the Fanatick Army; and being a Gifted Man, he was soon taken Notice of, and Advanced among them.

When the Army was in an Uproar and Mutiny at *New-Market* against their Masters the Parliament, he was one of those Agitators who were chosen out of every Company to represent their pretended Grievances, and to let the Parliament know that they refused to disband, and that they were not satisfied with the Terms of Peace proposed in the *Isle of Wight*. At this Time he shewed himself very forward in Impeaching several Members of the House, calling them Rotten Members, and was very Active in secluding and imprisoning them.

What Part he acted in the Royal Tragedy, how he beat his Soldiers to make them cry *Justice* and *Execution* when the King past to his Tryal through *Westminster-Hall*, and how he went off the Stage at last, is told at large in his Tryal and Speeches.

In that Expedition which was made to reduce *Ireland*, he is charged with committing Hellish Cruelties, not only upon the Native *Irish*, whom he murdered like Vermin, but upon the Protestants and *English* also, sparing none, even after he had promised them fair Quarter. He hanged what Gentry of the Countrey he

he pleased, whether Guilty, or not; his own Will was his Law. This Barbarity was so Notorious, that his own Merciless Brethren of the Army resented it, and drew up Articles against him in a Court-martial, which had been executed upon him, had not the Anabaptists (his own Sect) been the Predominant Party, and suffered the Business to drop.

Together with this Man suffered Colonel *Francis Hacker*, whose Principles and Actions may be learned from his Tryal. I can add nothing to his History, but that he is represented to have been a Man of desperate Fortune at the Beginning of the War, of greater Bulk of Body than Perfections of Mind.

All the Pernicious Principles which these Regicides owned and asserted at their Tryals, are so excellently confuted by the Court and Counsel, that the Reader can be in no Danger of receiving Infection from them. And he will be the less startled at some Expressions in their Speeches and Prayers, as when they call their Rebellion *The Cause of God*, &c. when he remembers that they had always been accustomed to such Enthusiastick Language, and had perverted every Page of the Sacred Book to justify their Impious and Rebellious Proceedings.

To conclude, I make it my Earnest Request to all Christian Families, where one or both Parents are untainted with the forementioned Principles, that

that they would be very Strict in the Religious Education of their Children, and not count it a Thing indifferent what Sort of Books are put into their Hands, and whether they are carried to the Church or to the Conventicle. For if we will be instructed by the sad Experience of our Forefathers, we must needs see that Enthusiasm has ended in Destruction; and we must be unpardonable Fools to *abhor the End, and not avoid the Means.*

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to conclude, I make it my Request to all Christian Readers, whether one of both Parties, are maintained with the rational Principles, that

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SUMMARY
(By Way of *Premise*)

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Dark Proceedings of the *Cabal* at
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Murther of His Late Sacred
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Journal-Book.

3. Jan. 1647. **T**H E Commons *Resolved*, That no further
Addresses be made to the King by them-
selves, nor by any other, without Leave
of both Houses, and those that do, to
incur the Penalty of *High-Treason*.

And *Declare*, They will receive no more Messages from
Him.

And *Enjoin*, That no Person whatsoever receive or bring
any Message from Him, to both, or either Houses, or to any
other Person.

15. Jan. 1647. The Lords concurred to these Votes.

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17. *August*, 1648. The Commons concur with the Lords, that these Votes for Non-Addresses be Revoked.

20. *November*, 1648. The Army present their *Remonstrance* to the Parliament, for bringing Delinquents to Justice.

24. *November*, 1648. The Treaty at the Isle of *Wight* Voted to continue till the Twenty-seventh of *November*.

1. *December*, 1648. Master *Hollis* presents an Account of the Treaty with the King.

And the same Day Information was brought them of the King's being removed from *Carisbrook* to *Hurst* Castle.

5. *December*, 1648. The King's Answer to the Propositions Voted a Ground for the House to proceed upon, for Settlement of the Peace of the Kingdom.

6. *December*, 1648. The Members were secured by Colonel *Pride*.

7. *December*, 1648. The House of Commons appointed a Day of Humiliation; *Peters*, *Caryl*, and *Marshal*, to perform the Duty.

The several Votes }
For Revoking the Votes for } Voted
Non-Addresses to the King, } Dishonour-
For a Treaty to be had } able and
with Him, } Destru-
That His Answers to the } ctive.
Propositions were a Ground }
for Peace,

23. *December*, 1648. A Committee was appointed to consider how to proceed in a Way of Justice against the King, and other Capital Offenders.

28. *December*, 1648. An Ordinance for Trial of the King was read.

1. *January*, 1648. Declared and Adjudged by the Commons, that by the Fundamental Laws it is Treason in the King of *England* for the Time being to Levy War against the Parliament and Kingdom.

2. *Jan.* 1648. The Lords disagreed to this Vote, and cast it out, and the Ordinance for Trial of the King, *Nemine contradicente*.

3. *Jan.*

3. Jan. 1648. The same *Vote* was again put to the Question in the House of Commons, and carried in the Affirmative.

4. Jan. 1648. Master *Garland* presents a new Ordinance for erecting an High Court of Justice for Trial of the King; which was read the First, Second, and Third Time, assented to, and passed the same Day.

And Ordered no Copy to be delivered.

Same Day Resolved, That the People are (under God) the Original of all just Powers.

That themselves, being Chosen by, and Representing the People, have the Supreme Power in the Nation.

That whatsoever is Enacted, or Declared, for Law by the Commons in Parliament, hath the Force of a Law, and the People concluded thereby: Though Consent of King and Peers be not had thereunto.

6. Jan. 1648. The Commissioners for Trial of the King are Ordered to meet on Monday next, at Two of the Clock, in the Painted-Chamber.

Their Days of Sitting were, 8, 10, 12, 13, 15, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, of January, 1648.

Painted-Chamber, Monday, 8. January, They chose *Ask, Dorislaus, Steel, and Cook*, to be their Council, and other Officers.

And sent out their Precept, under their Hands and Seals, for Proclaiming their Court in *Westminster-Hall*, to be held in the Painted-Chamber, on the Tenth. Which Precept is all of *Ireton's* Hand-writing. *Journal of the Court*, Fol. 6. And

Tuesday, the 19th, The Commissioners Ordered, that the Proclamation be made in *Cheapside*, and at the *Old Exchange*; and appointed a Committee to consider of the Matter of Government, of making a new Great Seal, and not using the Name of a Single Person.

Wednesday, the 10th, They chose *Bradshaw* (who was absent) for their President, and *Say*, *pro tempore*, who gave *Garland* Thanks for his Pains about the Business of the Court. Fol. 72.

And appointed their Council to prepare and prosecute their Charge.

And a Committee to consider for carrying on the Trial. Whereof *Millington, Garland, and Martin*, were Three.

Friday the 12th, *Waller* and *Harrison* are desired to attend the *General*, to appoint Guards to attend the Court.

And *Titchbourn* and *Roe*, with others, to prepare for the Solemnity of the Trial, and to appoint Workmen, &c. Fol. 16.

The Charge to be brought in on *Monday*.

And *Waller*, *Scot*, *Titchbourn*, *Harrison*, and others, to consider of the Place for Trial, and Report the next Day.

Saturday, the 13th, Upon *Garland's* Report, Ordered, the Trial be where the Courts of *King's-Bench* and *Chancery* sate in *Westminster-Hall*. Fol. 20.

Monday, the 15th, The Council brought in a Draught of the Charge. And a Committee appointed to advise therein, and compare the Evidence therewith. Fol. 21.

And they and others to consider the Manner of bringing the King to his Trial.

And that Day *Titchbourn* delivered a Petition to the Commons, in the Name of the Commons in *London*, in *Common-Council*, differing from the Lord-Mayor and Aldermen.

The Substance was for bringing the King to Justice; which was Ordered to be Registered in the Books of *Common-Council*.

Wednesday, the 17th, The Charge recommitted to the Committee. Fol. 24.

Thursday, the 18th, *Titchbourn* excused the Absence of *Mr. Steel*, and nothing then else done. Fol. 29.

Friday, the 19th, Upon *Millington's* Report of the Charge, and Form of Words for exhibiting it; Ordered, That the Attorney, or in his Absence the Solicitor, exhibit it. Fol. 30.

And *Waller*, *Harrison*, and others, to appoint Thirty to wait upon the King, and Twenty upon the President.

Saturday, the 20th, Forenoon, Ordered, That *Mildmay* deliver the Sword of State to *Humphreys*, to bear before the President.

The Solicitor presents the Charge engrossed; which being Read, and Signed by him, was returned to him to be exhibited, and then Adjourned to *Westminster-Hall*.

Westminster-Hall, Saturday, the 20th, Afternoon, The King was brought in by *Thomlinson*, attended by *Hacke*, and Two and Thirty Partizans And

And Cook then exhibited the Charge; and the King not owning their Authority, was remanded. And they Adjourned till Monday.

Painted-Chamber, Monday 22, Forenoon, They approved of what their President had done on Saturday, and Resolved,

That the King should not be suffered to question their Jurisdiction. Fol. 50.

Westminster-Hall, same Day, Afternoon, Cook prayed, that the King be directed to Answer; and if he refused, that the Matter of the Charge be taken pro confesso. And the King not owning their Authority, was remanded. Fol. 58.

Westminster-Hall, Tuesday, the 23d, Afternoon, The King not owning their Authority, was remanded; and the Court Adjourned to the Painted Chamber.

And there Resolved, They would examine Witnesses. Fol. 61.

Painted Chamber, Wednesday the 24th, was spent in examining their Witnesses. Fol. 66.

Painted-Chamber, Thursday, the 25th, Afternoon, they examined more Witnesses.

They Resolved to proceed to Sentence of Condemnation against the King.

And that this Condemnation be for being Tyrant, Traytor, and Murtherer, and Publick Enemy to the Common-wealth.

And that the Condemnation extend to Death. Fol. 68.

And Ordered, That a Sentence grounded upon these Votes be prepared by Scot, Marten, Harrison, and others.

Painted-Chamber, Friday the 26th, The Draught of the Sentence Reported and Agreed; and Resolved, That the King be brought the next Day to Westminster-Hall to receive it. Fol. 96.

Painted-Chamber, Saturday the 27th, Forenoon, The Sentence being engrossed, Resolved, The same should be the Sentence which should be read and published in Westminster-Hall the same Day.

That the President should not permit the King to speak after Sentence.

That after the Sentence Read he should declare it to be the Sence and Judgment of the Court.

That the Commissioners should thereupon signifie their Consent by standing up.

And the same Day the Commons *Ordered* the Clerk to bring in the Records of that Judgment to the House. *Journal of the House.*

Westminster-Hall, the same Day, Afternoon, the King being brought in, and not owning their Authority, the Sentence was Read.

And upon the Declaration of the President, That it was the Judgment of the Court, they stood up and owned it, and Adjourned to the *Painted-Chamber*,

And there appointed *Waller*, and others, to consider of the Time and Place for Execution.

Painted-Chamber, Monday the 29th, Upon the Report of the Committee, *Ordered*, a *Warrant* be drawn for executing the King in the open Street, before *White-Hall*, the next Day; directed to *Hacker*, and others; which was done accordingly. *Fol. 116.*

31. *January*, 1648. *Ordered* by the Commons, That the Lord Grey, out of *Haberdashers-Hall*, to dispose of 100 *l.* for the Service of the Common-wealth.

2. *February*, 1648. They *Ordered* in the first Place to take into Consideration, and Debate, the House of Lords, for Settlement of the Government.

6. *February*, 1648. The House being Seventy-three; and the *Question* put, Whether that House should take the Advice of the House of Lords in the Exercise of the Legislative Power? The House was divided, and it carried in the *Negative* by Fifteen Voices.

And then *Resolved*, That the House of Peers was useless and dangerous, and ought to be abolished; and *Ordered* an *Act* to be brought in for that Purpose.

7. *February*, 1648. They *Declared*, That the Office of a King in this Nation, and to have Power thereof in a Single Person, was unnecessary, burthensome and dangerous to the Liberty, Safety, and publick Interest of the People, and therefore ought to be abolished.

9. *February*, 1648. They *Ordered* the Narrative of the Proceeding and Records for Trial of the King to be forthwith brought into this House.

16. *Febru-*

16. February, 1648. They Ordered that the Clerk of that High Court of Justice be desired to bring in those Proceedings to their House the next Day.

March, 1648. Sir Arthur Haslrig Reports from the Committee, that Charles and James Stuart, Sons of the late King, should die without Mercy, wheresoever they should be found.

12. December, 1650. Mr. Say Reported the Proceedings of their High Court against the King, contained in a Book, entitled, *A Journal*, &c. which was read at large by their Clerk.

He likewise presented from that Court, the *Aff* for Trial of the King, and the *Precept* for holding the Court.]

The Charge was exhibited the 20th; and

The Sentence Read the Twenty-seventh, of January, 1648.

And thereupon they Declared;

That the Persons entrusted in that great Service had discharged their Trust with great Courage and Fidelity.

That the Parliament was well satisfied in that Accompt of the Particulars and Proceedings.

And Ordered, That the same Records do remain among the Records of Parliament, that those Proceedings be Engrossed in a Roll, and Recorded among the *Parliament-Rolls*, for transmitting the Memory thereof to Posterity.

And Resolved, That their Commissioners for their Great Seal issue a *Certiorari* to their Clerk, to transmit those Proceedings into the Chancery, there to be on Record.

And that the same be sent by *Mittimus* from thence to other Courts at *Westminster*, and the *Custos Rotulorum* of the Counties, to be Recorded.

[8]

*In the County of Middlesex. The Proceedings
at Hick's-Hall, Tuesday the 9th of October,
1660, in Order to the Trial of the Pretended
Judges of his Late Sacred Majesty.*

THE Court being fate, the Commission of Oyer and Terminer, under the Great-Seal of England, was first Read. It was directed to the Lords, and others hereafter named, viz.

*Thomas Aleyn, Knight and
Baronet, Lord Mayor of
the City of London.*

*The Lord Chancellor of Eng-
land.*

*The Earl of Southampton,
Lord Treasurer of Eng-
land.*

The Duke of Somerset.

The Duke of Albemarle.

*The Marquess of Ormond,
Steward of His Majesties
Houſhold.*

*The Earl of Lindsey, Great
Chamberlain of England.*

*The Earl of Manchester, Cham-
berlain of His Majesties
Houſhold.*

The Earl of Dorset.

The Earl of Berkshire.

The Earl of Sandwich.

Viscount Say and Seal.

The Lord Roberts.

The Lord Finch.

Denzil Hollis, Esquire.

*Sir Frederick Cornwallis;
Knight and Baronet, Trea-
ſurer of His Majesties
Houſhold.*

*Sir Charles Barkly, Knight,
Comptroller of His Maje-
sties Houſhold.*

Mr. Secretary Nicholas.

Mr. Secretary Morris.

Sir Anthony Ashley-Cooper.]

Arthur Annesley, Esq;

The Lord Chief Baron.

Mr. Justice Foster.

Mr. Justice Mallet.

Mr. Justice Hide.

Mr. Baron Atkins.

Mr. Justice Twisden.

Mr. Justice Tyrrel.

Mr. Baron Turner.

*Sir Harbottle Grimston;
Knight and Baronet.*

Sir

Sir William Wild, Knight and Baronet, Recorder of Lon- don.	Mr. Serjeant Brown. Mr. Serjeant Hale. John Howel, Esq;
--	--

Sir Geoffry Palmer, His Majesties *Attorney-General*.
 Sir Heneage Finch, His Majesties *Sollicitor-General*.
 Sir Edward Turner, Attorney to His Highness the Duke of
 York.
 Wadham Windbam, Esq;

Edward Shelton, Esq; Clerk of the Crown.

The Grand Jury Sworn were,

Sir William Darcy, Baronet, Foreman. Sir Robert Bolles, Baronet. Sir Edward Ford, Knight. Sir Thomas Prestwick. Sir William Coney, Knight. Sir Charles Sidley, Baronet. Sir Lewis Kirk, Knight. Sir Henry Littleton, Baronet. Sir Ralph Bovey, Baronet. Edward Chard, Esquire. Robert Giddon, Esquire.	John Fotherly, Esquire. Charles Gibbons, Esquire. Thomas Gere, Esquire. Richard Cox, Esquire. Robert Bladwell, Esquire. Henry Mustian, Esquire. John Markham, Esquire. Edward Buckley, Gent. Francis Bouchier, Gent. Edward Lole. Hart, Crier.
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After Proclamation for Silence was made, it pleased Sir Or-
 lando-Bridgman, Lord Chief Baron of His Majesties High
 Court of *Exchequer*, to speak to the *Jury* as followeth.

The

The Lord Chief Baron's Speech.

Gentlemen,

YOU are the *Grand Inquest* for the Body of this County of *Middlesex*: You may perceive by this *Commission* that hath been read, that we are authoriz'd by the King's Majesty to hear and determine all Treasons, Felonies, and other Offences, within this County: But because this *Commission* is upon a special Occasion, the Execrable Murther of the Blessed King, that is now a Saint in Heaven, King *Charles the First*, we shall not trouble you with the Heads of a long Charge. The Ground of this *Commission* was, and is, from the *Act of Oblivion, and Indempnity*. You shall find in that *Act* there is an Exception of several Persons, who (for their Execrable Treasons, in Sentencing to Death, and Signing the *Warrant* for the taking away the Life of our said Sovereign) are left to be proceeded against as Traytors, according to the Laws of *England*; and are out of that *Act* wholly excepted and fore-priz'd.

Gentlemen, You see these Persons are to be proceeded with according to the Laws of the Land; and I shall speak nothing to you but what are the Words of the Laws. By the *Statute* of the Twenty-fifth of *Edward the Third*, (a *Statute* or *Declaration* of Treason) it is made High-Treason to compass and imagine the Death of the King. It was the Ancient Laws of the Nation: In no Case else Imagination, or Compassing, without an Actual Effect of it, was Punishable by our Law. *Nihil efficit Conatus nisi sequatur Effectus*; that was the Old Rule of Law: But in the Case of the King, his Life was so Precious, that the Intent was Treason by the *Common Law*; and declar'd Treason by this *Statute*. The Reason of it is this: In the Case of the Death of the King, the Head of the Commonwealth that's cut off; and what a Trunk, an *inanimate* Lump, the Body is when the Head is gone, you all know. For the Life of a single Man, there's the Life of the Offender; there's some Recompence, Life for Life: But for the Death of the King what Recompence can be made? This Compassing and Imagining the cutting off the Head of the King is known by

by some *Overt-Act*. Treason it is in the wicked Imagination, though not Treason apparent; but when this Poison swells out of the Heart, and breaks forth into Action, in that Case it's High-Treason.

Then what is an Imagination or Compassing of the King's Death? Truly it is any Thing which shews what the Imagination is. Words, in many Cases, are Evidences of this Imagination; they are Evidences of the Heart. Secondly, As Words; so if a Man, if Two Men do conspire to levy War against the King, (and (by the Way) what I say of the King, is, as well of the King Dead, as Living; for, if a Treason be committed in the Life of One King, it is Treason, and Punishable in the Time of the Successor,) then, I say, in Case, not only of Words, but if they conspire to levy War against the King, there's another Branch of this *Statute*, the *Levy*ing of War, is Treason. But, if Men shall go and consult together, and this is to kill the King, to put him to Death, this Consultation is clearly an *Overt-Act* to prove this Imagination, or Compassing of the King's Death.

But what will you say then, if Men do not only go about to conspire and consult, but take upon them to judge, condemn, nay, put to Death, the King? Certainly, this is so much beyond the Imagination and Compassing, as 'tis not only laying the Cockatrice's Egg, but brooding upon it till it hath brought forth a Serpent. I must deliver to you for Plain and True Law, That *no Authority, no single Person, no Community of Persons, not the People Collectively, or Representatively, have any coercive Power over the King of England*. And I do not speak mine own Sence, but the Words of the Laws unto you. It was the Treason of the *Spencers* in King *Edward the Second's* Time, in *Calvin's Case*, Second Report. The *Spencers* had an Opinion, that all Homage and Allegiance was due to the King, by Reason of the Crown, as they call'd it. And thereupon (say the *Books* and *Records*) they drew out this execrable Inference, (among others,) That if the King did not demean himself according to Right, because he could not be Reform'd by Law, he might, *per aspertee*, that is, by sharp Imprisonment; but this was adjudg'd horrid Treason by Two *Acts* of Parliament.

Gentlemen, Let me tell you what our *Law-Books* say; for there's the Ground, out of which (and the *Statutes* together) we must draw all our Conclusions for Matter of Government.

How do they stile the King? They call him, *The Lieutenant of God*, and many other Expressions in the Book of *Primo Henrici Septimi*; says that Book there, *The King is immediate from God, and hath no Superior*. The *Statutes* say, That the *Crown of England is immediately subject to God, and to no other Power*. The King (says our Books) *He is not only Caput Populi, the Head of the People; but Caput Reipublicæ, the Head of the Commonwealth, The Three Estates*. And truly thus our *Statutes* speaks very fully. Common Experience tells you, when we speak of the King, and so the *Statutes* of *Edward the Third*, we call the King, *Our Sovereign Lord the King: Sovereign*, that is, *Supreme*. And when the Lords and Commons in *Parliament* apply themselves to the King, they use this Expression, *Your Lords and Commons, your faithful Subjects humbly beseech*. I do not speak any Words of my own, but the Words of the Laws. Look upon the *Statute, primo Jacobi*, there's a Recognition, that the *Crown of England* was lawfully descended on the King and his Progeny.

(*The Statute itself was read, to which it is desired the Reader will be referr'd.*)

These are the Words of the *Act*. And this is not the First Precedent; for you shall find it *primo Eli. cap. 3*. They do acknowledge the Imperial Crown lawfully descended on the *Queen*, the same Recognition with this. Before that (because we shall shew you we go upon Grounds of Law in what we say) *Stat. 24. Hen. 8. cap. 12. Whereas by sundry Old Authentick Histories and Chronicles it is manifestly declared and expressed, that this Realm of England is an Empire, and so hath been accepted in the World, govern'd by One Supreme Head and King, having the Dignity and Royal Estate of the Imperial Crown of the same, &c.*

25 Hen. 8. c. 21. There it is the People speaking of themselves, That they do recognize no Superior under God, but only the King's Grace.

Gentlemen, You see, if the King be immediate under God, he derives his Authority from nobody else; if the King have an

an Imperial Power, if the King be Head of the Commonwealth, Head of the Body Politick, if the Body Politick owe him Obedience, truly I think it is an undenied Consequence, he must needs be Superior over them.

Gentlemen, This is no New Thing to talk of an *Emperor*, or an *Imperial Crown*. Do not mistake me all this while: It is one Thing to have an *Imperial Crown*, and another Thing to govern *Absolutely*.

Gentlemen, The *Imperial Crown* is a Word that is significative; you shall find in all *Statutes primo Eliz.* and the First of King *James*, nay, even in the *Act* of Judicial Proceedings of this *Parliament* it is call'd an *Imperial Crown*. They that take the Oaths of Allegiance and Supremacy, they swear, that they will, to their Power, assist and defend all Jurisdictions, Priviledges, Preheminences, and Authorities, granted or belonging to the King, his Heirs, and Successors, or annex'd to the *Imperial Crown* of this Realm. What is an *Imperial Crown*? It is that, which, as to the Coercive Part, is subject to no Man under God. The King of *Poland* has a Crown; but what is it? At his *Coronation* it is conditioned with the People, That if he shall not govern them according to such *Rules* they shall be freed from their Homage and Allegiance; but the Crown of *England* is, and always was, an *Imperial Crown*, and so sworn.

Gentlemen, As I told you, even now, the *Imperial Crown* is a Word significative; that Crown, which, as to the Coercive Part, is not subject to any Human Tribunal, or Judicature, whatsoever. And truly that this is such an *Imperial Crown*, though I have cited Authorities Ancient enough, you may find them much more Ancient. I remember in the Story of *William Rufus* (you shall find it in *Matthew Paris* and *Eadmerus*) some Question was about *Investiture* of Bishops, and the like, the King writes his Letter, *That, &c.*

God forbid I should intend any Absolute Government by this. It is one Thing to have an *Absolute Monarchy*, another Thing to have that Government *Absolutely* without Laws, as to any Coercive Power over the Person of the King; for as to *Things* or *Actions*, they will fall under another Consideration as I will tell you by and by.

Gentlemen,

[14]

Gentlemen, Since this is so, consider the Oath of Supremacy, which most Men have taken, or should take. All Men that enter into the *Parliament House*, they are expressly enjoined by *Statute* to take the Oath of Supremacy. What says that Oath? We swear that *the King is the only Supreme Governour within this Realm and Dominions*. He is *Supreme*, and the *only Supreme*; and truly if he be *Supreme*, there is neither *Major* nor *Superior*. I urge this the more, lest any Person, by any Misconstruction or Inference which they might make from something that hath been acted by the Higher Powers, they might draw some dangerous Inferences or Consequences to colour or shadow over those Murtherous and Traiterous Acts, which afterwards they committed. They had no Authority: But as I told you, tho' I do set forth this, and declare this to you, to let you know that the King was immediately subject to God, and so was not Punishable by any Person; yet let me tell you there is that excellent Temperament in our Laws, that for all this the King cannot rule but by his Laws. It preserves the King, and his Person, and the Peoples Rights.

There are Three Things touching which the Law is Conversant, *Personæ, Res & Actiones*; Persons, Things, and Actions. For the *Person* of the King; he is the Supreme Head, he is not Punishable by any Coercive Power; the Laws provide for that. *The King can do no Wrong*; it is a *Rule of Law*, it is in our *Law Books* very frequent; 22d of *Edward the Fourth*, Lord *Coke*, and many others. If he can do no Wrong, he cannot be punish'd for any Wrong. The King, he hath the Infirmities and Weakness of a Man; but he cannot do any Injury, at least not considerable, in Person; he must do it by Ministers, Agents, Instruments. Now the Law, though it provide for the King, yet if any of his Ministers do Wrong, though by his Command, they are Punishable. The King cannot arrest a Man, as he cannot be arrested himself; but if he arrest me by another Man, I have Remedy against this Man, though not against the King; and so he cannot take away my Estate. This as to the *Person* of the King: He is not to be touched, *Touch not mine Anointed*.

I

I come to *Things*. If the King claim a Right, the King must sue according to his *Laws*; the King is subject to the *Laws* in that Case, his Possessions shall be tried by *Juries*. If he will try a Man for his Father's Death, you see he will try them by the *Laws*. The Law is the Rule and Square of his *Actions*, and by which he himself is judg'd.

Then for *Actions*, that is, such *Actions* whereby Rights and Titles are prosecuted or recovered, the King cannot judge in Person betwixt Man and Man, he does it by his Judges, and upon Oath; and so in all Cases whatsoever, if the King will have his Right, it must be brought before his Judges. Though this is an *Absolute* Monarchy, yet this is so far from infringing the Peoples Rights, that the People, as to their Properties, Liberties, and Lives, have as great a Privilege as the King. It is not the sharing of Government that is for the Liberty and Benefit of the People; but it is how they may have their Lives, and Liberties, and Estates, safely secured under Government. And you know, when the Fatness of the *Olive* was laid aside, and we were governed by *Brambles*, these *Brambles*, they did not only tear the *Skin*, but tore the *Flesh* to the very Bone.

Gentlemen, I have done in this Particular, to let you see that the Supreme Power being in the King, the King is immediately under God, owing his Power to none but God. It is true (Blessed be God) we have as great Liberties as any People have in *Christendom*, in the World; but let us own them where they are due; we have them by the Concessions of our Princes. Our Princes have granted them; and the King, now; he in them hath granted them likewise.

Gentlemen, I have been a little too long in this, and yet I cannot say it is too long, because it may clear Misunderstanding, so many Poisonous Opinions having gone Abroad. To come a little nearer: If we consider; suppose there were the Highest Authority; but when we shall consider this horrid Murder (truly I cannot almost speak of it, but ——— *Vox faucibus haret.*) When we shall consider, that a few Members of the *House of Commons*, those that had taken the Oath of *Supremacy*, and those that had taken the Oath of *Allegiance*, that was to defend the King, and his Heirs, against all Conspiracies,

cies, and Attempts, whatsoever, against his and their Person, their Crowns and Dignities; not only against the *Pope's* Sentence, as some would pretend, but, as otherwise, against all Attempts and Conspiracies, not only against his Person, Crown, and Royal Dignity, nor *Pope's* Sentence, nor only in Order to the Profession of Religion; but Absolutely or otherwise, that is, whatsoever Attempts, by any Power, Authority, or Pretence whatsoever. I say, when a few Members of the *House of Commons*, not an Eighth Part of them, having taken these Oaths, shall assume upon themselves an Authority; an Authority, what to do? Shall assume to themselves an Authority to make Laws, which was never heard before; Authority to make Laws: What Laws? A Law for an *High Court of Justice*, a Law for Lives, to sentence Mens Lives; and whose Life? The Life of their Sovereign: Upon such a King, who, as to them, had not only redressed long before, at the beginning of the *Parliament*, all Grievances that were, and were imaginable, taken away, the *Star-Chamber*, *High-Commission-Court*, and about *Shipping*; such a King, and after such Concessions that he had made in the *Isle of Wight*; when he had granted so much, that was more than the People would have desired. When these few *Commons*, not only without, but excluding the rest of the *Commons*; not only without, but excluding the rest, but rejecting the *Lords* too, that then sat: When these few *Commons* shall take upon them this Authority, and by colour of this, their King, Sovereign Liege Lord, shall be sentenc'd, put to Death; and that put to Death, even as their King, and sentenc'd as their King; put to Death as their King, and this before his own Door, even before that Place where he used in *Royal Majesty* to hear *Embassadors*, to have his Honourable Entertainments; that this King shall be thus put to Death at Noon-day, it is such an Aggravation of Villany, that truly I cannot tell what to say. No Story, that ever was, I do not think any *Romance*, any Fabulous *Tragedy*, can produce the like. *Gentlemen*, If any Person shall now come, and shroud himself under this pretended Authority, or such a pretended Authority, you must know, that this is so far from an Excuse, that it is an Height of Aggravation. The Court of *Common-Pleas*

Pleas is the Common Shop for Justice; in that Court an Appeal is brought for Murther, which ought to have been in the *King's Bench*, the Court gives Judgment. the Parry is condemn'd, and executed: In this Case it is Murther in them that executed, because they had no Lawful Authority. I speak this to you, to shew you, that no Man can throud himself by Colour of any such false or pretended Authority. I have but One Thing more to add to you upon this Head, and that is (which I should have said at first) if Two or more do compass or imagine the King's Death; if some of them go on so far as to Consultation, if others of them go further, they sentence, and execute, put to death: In this Case they are all Guilty; the first Consultation was Treason. I have no more to add, but One Particular, a few Words.

As you will have Bills presented against those for Compassing, Imagining, Adjudging, the King, so possibly you may have Bills presented against some of those for Levying War against the King: Levying of War, which is another Branch of the *Statute* of 25th of *Edward the Third*. It was but Declarative of the Common Law; it was no New Law. By that Law it was Treason to *Levy War* against the King. But to *Levy War* against the King's Authority you must know is Treason too. If Men will take up Arms upon any Publick Pretence; if it be to expulse Aliens; if but to pull out Privy-Councillors; if it be but against any Particular Laws, to reform Religion, to pull down Enclosures: In all these Cases if Persons have assembled themselves in a Warlike Manner to do any of these Acts, this is Treason, and within that Branch of Levying War against the King. This was adjudg'd in the late King's Time in *Berstead's Case*. *Queen Elizabeth's*, *Henry the Eighth's*, former Times, King *James's* Time; much more, if Men will go not only to Levy War against the King, but against the Laws, all the Laws, subvert all the Laws, to set up New Laws, Models of their own. If any of these Cases come to be presented to you, you know what the Laws are. To conclude, you are now to enquire of Blood, of Royal Blood, of Sacred Blood, Blood like that of the *Saints* under the *Altar*, crying *Quousque, Domine? How long, Lord, &c.* This Blood cries for Vengeance, and it will not be appeas'd without a Bloody Sacrifice.

Remember but this, and I have done: I shall not press you upon your Oaths; you are Persons of Honour; you all know the Obligation of an Oath. This I will say, that he that conceals or favours the Guilt of Blood, takes it upon himself, wilfully, knowingly, takes it upon himself; and we know that when the *Jews* said, *Let his Blood be on us and our Seed*, it continued unto them and their Posterity to this Day.

God save the King. Amen, Amen.

His Lordship's Speech being ended, *Thomas Lee* of the *Middle Temple, London*, Gentleman, was call'd to give in the Names of his *Witnesses*. The Names of the *Witnesses* then and there Sworn follow.

<i>William Clark, Esq;</i>	<i>Griffith Bodurdo, Esq;</i>
<i>James Nutley, Esq;</i>	<i>Samuel Boardman.</i>
<i>Mr. George Masterfon, Clerk.</i>	<i>Robert Carr, Esq;</i>
<i>George Farrington.</i>	<i>Richard Young.</i>
<i>Hercules Huncks.</i>	<i>Sir Purbock Temple.</i>
<i>Dr. William King.</i>	<i>John Rushworth, Esq;</i>
<i>Martin Foster.</i>	<i>John Gerrard.</i>
<i>John Baker.</i>	<i>John Hearn.</i>
<i>Stephen Kirk.</i>	<i>Mr. Coitmore.</i>
<i>Richard Nunnelly.</i>	<i>Mr. Cunningham.</i>
<i>John Powel.</i>	<i>Mr. Clench.</i>
<i>John Throckmorton.</i>	<i>William Jessop, Esq;</i>
<i>John Blackwel.</i>	<i>Edward Austin.</i>
<i>Ralph Hardwick.</i>	<i>Darnel, Esq;</i>
<i>Thomas Walkley, Gentleman.</i>	<i>Mr. Brown.</i>
<i>Holland Simpson.</i>	<i>Thomas Tongue.</i>
<i>Benjamin Francis.</i>	<i>John Bowler.</i>
<i>Colonel Matthew Thomlinson.</i>	<i>Mr. Sharp.</i>
<i>Mr. Lee.</i>	<i>Edward Folley.</i>
<i>Robert Ewer.</i>	<i>Mr. Gouge.</i>
<i>John King.</i>	<i>Anthony Mildmay, Esq;</i>

The *Grand Jury* return'd the Indictment *Billa Vera*.
Court adjourn'd to the *Old-Bailey* 10th of *October*.

The 10th of October, 1660.

SIR John Robinson, Knight, Lieutenant of his Majesties Tower of London, according to his Warrant receiv'd, delivered to Mr. Sheriff the Prisoners hereafter named; who were (in several Coaches) with a strong Guard of Horse and Foot convey'd to Newgate, and about Nine of the Clock in the Morning delivered to the Keepers of that Prison; and thence brought to the Session-house in the Old-Baily, London, where the Commissioners of Oyer and Terminer were in Court Assembled, and where their Indictment was publickly read by Edward Shelton, Esq; Clerk of the Crown.

Session-house in the Old-Baily, October 10. 1660.

THE Court being Assembled, and Silence Commanded, the Commission of Oyer and Terminer was again read. After which Sir Hardress Waller, Colonel Thomas Harrison, and Mr. William Heveningham, were brought to the Bar and commanded to hold up their Hands; which Sir Hardress Waller and Mr. Heveningham did; but Harrison being commanded to hold up his Hand, answered, *I am here, and said,*

My Lord, if you please I will speak a Word —

Court. Hold up your Hand, and you shall be heard in due Time. Mr. Harrison, the Course is that you must hold up your Hand first. *And then he held up his Hand.*

The Indictment was read, purporting, That he, together with others, not having the Fear of God before his Eyes; and being instigated by the Devil, did maliciously, treasonably, and feloniously, contrary to his due Allegiance, and bounden Duty, sit upon and condemn our late Sovereign Lord, King Charles the First, of Ever-Blessed Memory; and also did upon the Thirtieth of January, 1648, Sign and Seal a Warrant for the Execution of his late Sacred and Serene Majesty, of Blessed Memory. Where also, &c.

Clerk of the Crown. How sayest thou Sir Hardress Waller? Art thou Guilty of that Treason whereof thou standest Indicted; and for which thou hast now been Arraigned? Or Not Guilty?

Sir Hardress Waller. My Lords, I dare not say, Not Guilty; but since that in a Business of this Nature we have no Council or Advice, and being not able to speak to Matter of Law —

Lord Chief Baron. I am loth to interrupt you; but this is the Course : You have heard the *Indictment* read, and the Course is, you must plead *Guilty*, or *Not Guilty*. There is no *Medium*, *Guilty*, or *Not Guilty*. It is that which is the Law, and the Case of all Men. Are you *Guilty*? or *Not Guilty*?

Sir Hard. Waller. *I may confess myself Guilty of some Particulars in that Indictment, but not of all; for so, instead of discharging, I shall wound, my Conscience.*

Clerk. Are you *Guilty*? Or *Not Guilty*?

Sir Hard. Waller. *If I might have that Liberty to ———*

Court. You shall have that Liberty that any Subject of the Nation can have or can challenge. No Man, standing at the Bar in that Condition you are, must make any other Answer to the *Indictment* than *Guilty*, or *Not Guilty*. It's the Common Case of all Men. Your Confession must be Plain and Direct, either *Guilty*, or *Not Guilty*.

Sir Hard. Waller. *My Lord, I do desire some Time to consider of it, for it is a great Surprizal.*

Court. You have had Time enough to consider of it; you must follow the Directions of the Court, *Guilty*, or *not Guilty*? You must not thus discourse of being surprized; for these Discourses are contrary to all Proceedings of this Nature.

Clerk. How say you, *Sir H. Waller*? Are you *Guilty*, or *Not Guilty*.

Sir Hard. Waller. *I dare not say, Not Guilty.*

Clerk. Will you confess then?

Sir Hard. Waller. *I would be glad to be understood ———*

Court. Your Plea must be direct, *Guilty*, or *Not Guilty*.

Sir Hard. Waller. *Shall I be heard, my Lord?*

Court. Yes, upon your Trial. There is but Two Ways, Plead *Not Guilty*, or confess it. *Sir Hardress Waller*, we would not have you to be deceived. If you confess, and say, you are *Guilty*, there is nothing then but Judgment: If you say *Not Guilty*, then you shall be heard with your Evidence. Consider with your self. Plead *Not Guilty*, or confess, and say you are *Guilty*.

Sir Hard. Waller. *My Lord, it puts me upon a great Contest with myself. I shall be very free to open my Heart ———*

Court. Sir, you must plead *Guilty*, or *Not Guilty*.

Sir

Sir Hard. Waller. My Lord, my Condition differs from others, I am a Stranger; I have been Thirty Years transplanted into Ireland, which has made me unacquainted with the Affairs of the Law here.

Court. You must keep to the Course of the Law, either *Guilty*, or *Not Guilty*. There is but one of these two Pleas to be made.

Sir Hard. Waller. I dare not say *Not Guilty*.

Court. There are but these Three Things to be considered. Either you must say *Guilty*, which is *Confession*, and then there remains no more but *Judgment*; or *Not Guilty*, and then you shall be heard, or *Judgment* will pass for your standing *Mute*, which is all one as if you had confessed.

Sir Hard. Waller. Inasmuch as I have said I dare not say *Not Guilty*, I must say *Guilty*.

Clerk. You say you are *Guilty*? You confess the *Indictment*?

Sir Hardress Waller. Yes.

Clerk. *Thomas Harrison*, How sayest thou? Art thou *Guilty* of the *Treason* whereof thou standest *Indicted*, and art now *Arraigned*? Or *Not Guilty*?

Tho. Harrison. My Lords, have I Liberty to speak?

Court. No more (at this Time) than *Guilty*, or *Not Guilty*. *Mr. Harrison*, you have heard the Direction before. We can give you but the same Rule. If you plead *Not Guilty*, you shall be heard at large; if *Guilty*, you know what remains.

Tho. Harrison. Will you give me Leave to give you my Answer in my own Words.

Lord Chief Bar. There is no Answer but what the Law directs; it is the same with you as with all others, or as I would desire if I were in your Condition. You must plead *Not Guilty*; or if you confess *Guilty*, there must be *Judgment* upon your Confession. The same Rule for one must be for another.

Tho. Harrison. You express your Rule very fair, as well to me as this Gentleman (pointing at *Sir Hardress Waller*) but I have something to say to your Lordships, which concerns your Lordships as well as myself.

Court. You must hold and plead *Guilty*, or *Not Guilty*. If you go otherwise (as I told you before) it will be as if you pleaded not at all, and then *Judgment* will pass against you. The Law gives the Words, frames your Answer, it is none else but the Laws, *Guilty*, or *Not Guilty*?

Tho. Harrison. *My Lord, I have been kept close Prisoner near these Three Months, that nobody might have Access to me. Do you call me to give you a Legal Answer, not knowing of my Trial till Nine of the Clock last Night, and brought away from the Tower, to this Place, at Six of the Clock this Morning?*

Court. You must give your direct Answer, *Guilty, or Not Guilty.* You cannot say it is sudden, or unprovided. You spend Time in vain. You trouble the Court. You must plead *Guilty, or Not Guilty.* We must not suffer you to make Discourses there. You must plead either *Guilty, or Not Guilty.*

Clerk. Are you *Guilty? Or Not Guilty?*

Thomas Harrison. *I am speaking. Shall I not speak Two Words?*

Court. If you will not put yourself upon your Trial you must expect that Course that the Law directs.

Tho. Harrison. *May it please your Lordships, I am now—*

Clerk. Are you *Guilty? Or Not Guilty?*

Tho. Harrison. *I desire to be advised by the Law; this is a Special Case.*

Court. The Law allows nothing now, but to plead *Guilty, or Not Guilty.*

Court. You must plead to your *Indictment.* If it be Treason it cannot be justified; if it be justifiable, it is not Treason; therefore plead *Guilty, or Not Guilty.*

Tho. Harrison. *Give me Advice in this——*

Clerk. Tho. Harrison, Are you *Guilty? Or Not Guilty?*

Thomas Harrison. *I would willingly render an Account of all my Doings——*

Clerk. Are you *Guilty? Or Not Guilty?*

Court. You have been acquainted with the Legal Proceedings. You never found in all your Experience that any Prisoner at the Bar, for Felony or Treason, was suffered thus to Discourse, or to answer otherwise than *Guilty, or Not Guilty.*

Clerk. Are you *Guilty? Or Not Guilty?*

Mr. Sol. Gen. *I do beseech your Lordships he may Plead; peradventure he knows his Case so well that he thinks it as cheap to defie the Court, as submit to it.*

Court. We must enter your standing *Mute; that's Judgment.*

Clerk. Are you *Guilty? Or Not Guilty?*

Tho.

Tho. Harrifon. *Will you refuse to give me any Satisfaction Court. Are you Guilty? Or Not Guilty?*

Tho. Harrifon. *Will you give me your Advice?*

Court. We do give you Advice. The Advice is, there is no other Plea, but *Guilty*, or *Not Guilty*. You shall be heard when you have put yourself upon your Trial.

Clerk. *Are you Guilty? Or Not Guilty?*

Tho. Harrifon. *You do deny me Council, then I do plead Not Guilty.*

Clerk. You plead *Not Guilty*. Is this your Plea?

Tho. Harrifon. *Yes.*

Clerk. How will you be tried?

Tho. Harrifon. *I will be tried according to the Laws of the Lord.*

Clerk. Whether by *God* and the *Countrey*?

Lord Chief Baron. *Now I must tell you, if you do not put yourself upon your Countrey you have said nothing.*

Clerk. How will you be Tried?

Tho. Harrifon. *It is to put myself upon what you please to put me upon.*

Court. If you understand (you are not every Man, you are versed in Proceedings of Law,) you know you must put yourself upon the Trial of *God* and your *Countrey*, if you do not, it is as good as if you had said nothing.

Tho. Harrifon, *You have been misinformed of me——*

Court. You have pleaded *Not Guilty*, that which remains is, that you must be Tried by *God* and the *Countrey*, otherwise we must Record your standing *Mute*.

Clerk. How will you be Tried?

Th. Harrifon. *I will be tried according to the ordinary Course.*

Clerk. Whether by *God* and the *Countrey*? You must speak the Words.

Tho. Harrifon. *They are vain Words——*

Court. We have given you a great deal of Liberty and Scope, which is not usual. It is the Course, and Proceedings of Law, if you will be Tried you must put yourself upon *God* and the *Countrey*.

Clerk. How will you be Tried?

Tho. Harrison. *I do offer my self to be tried in your own Way, by God and my Countrey.*

Clerk. God send you a good Deliverance.

Clerk. *William Heveningham*, hold up your Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

Will. Heveningham. *Not Guilty.*

Clerk. How will you be tried?

Will. Heveningham, *By God and the Countrey.*

Clerk. God send you a good Deliverance.

Sir Hard. Waller then presented his Petition to the Court, directed to the King's Majesty, and the Parliament, which was received, but not at this Court read, and then the Three Persons aforesaid were dismissed.

Clerk. Bring to the Bar *Isaac Pennington*, Esq; *Henry Marten*, Esq; *Gilbert Millington*, Gentleman, *Robert Tichbourn*, Esq; *Owen Roe*, Esq. and *Robert Lilburn*, Gentleman, who were called, and appeared at the Bar, and being commanded severally, held up their Hands.

The Indictment was read again, as to the former Persons.

Clerk. *Isaac Pennington*, hold up thy Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

Isaac Pennington. *Not Guilty*, my Lord.

Clerk. How will you be tried?

Isaac Pennington. *By God and the Countrey.*

Clerk. God send you a good Deliverance.

Clerk. *Henry Marten*, How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

Hen. Marten, *I desire the Benefit of the Act of Oblivion—*

Clerk. Are you *Guilty*? Or *Not Guilty*?

Court. You are to understand the Law is this, the same to you and every one; you are to plead *Guilty*, or *Not Guilty*. If you will demand the Benefit of the *Act of Oblivion*, it is a Confession of being *Guilty*.
Hen.

Hen. Marten. *I humbly conceive the Act of Indempnity—*
Court. You must plead *Guilty*, or *Not Guilty*.

Hen. Marten. *If I plead I lose the Benefit of that Act.*

Court. You are totally excepted out of the *Act*.

Hen. Marten. *If it were so I would plead. My Name is not in that Act.*

Court. *Henry Martin* is there.

Mr. Solicitor-Gen. *Surely he hath been kept close Prisoner indeed, if he hath not seen the Act of Indemnity. Shew it him.*

Mr. Shelton opening the *Act*.

Court. How is it written?

Clerk. It is *Henry Martin*.

And then the Act was shewed to the said Mr. Marten.

Hen. Marten. *Henry Martin. My Name is not so, it is Harry Marten.*

Court. The Difference of the Sound is very little. You are known by that Name of *Martin*.

Hen. Marten. *I humbly conceive all Penal Statutes ought to be understood Literally.*

Clerk. Are you *Guilty*? Or *Not Guilty*?

Hen. Marten. *I am not Henry Martin.*

Clerk. Are you *Guilty*? Or *Not Guilty*?

Court. Be advised; the Effect of this Plea will be *Judgment*.

Here Mr. Solicitor-Gen. cited somewhat Parallel to this in a Case formerly of *Baxter*, where the Name was *Bagster*, with an *S.* and adjudged all one, being of the same Sound.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Hen. Marten. *My Lord, I desire Council; there will arise Matter of Law, as well as Fact.*

Court. You are *Indicted* for *Treason*, for a *Malicious, Traiterous* Compassing and Imagining the King's Death. if you have any Thing of Justification plead *Not Guilty*, and you shall be heard; for if it be Justifiable, it is not *Treason*. The Rule is, either you must plead *Guilty*, and so confess, or *Not Guilty*, and put yourself upon your Trial; there is no *Medium*.

Hen. Marten. *May I give any thing in Evidence before Verdict?*

Court.

Court. Yes, upon your Trial you may give any Thing in Evidence that the Law warrants to be *lawful Evidence*.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Court. Understand one Thing, because I would not have you mistaken; you cannot give in Evidence the *Misnomer*, but any Thing to the Matter of *Fact*.

Hen. Marten. I *submit*, and plead *Not Guilty*.

Clerk. How will you be Tried?

Hen. Marten. By *God and the Countrey*.

Clerk. God send you a good Deliverance.

Clerk. *Gilbert Millington*, Hold up your Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and art now Arraigned? Or *Not Guilty*?

Gilb. Millington. My Lord, I am an *Ancient Man*, and *Deaf*; I humbly crave your Lordship's Pardon to hear me a few Words; I will promise it shall be pertinent enough.

Mr. Sol. Gen. Impertinent enough *he means*.

Court. You must plead either *Guilty*, and so confess it, or *Not Guilty*, and then you shall be heard any Thing for your Justification.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Gilb. Millington. I desire I may——

Court. There is nothing you can say but *Guilty*, or *Not Guilty*; all other Discourses turn upon yourself.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Gilb. Millington. You might enlighten me in some *Scruples*. Does my Pause trouble you much? I should not be long.

Court. Your particular Case cannot differ from others.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Gilb. Millington. There are some Things in the *Indictment* that I can say *Not Guilty* to, there are others that I must deal *ingenuously*, and confess them.

Clerk. Are you *Guilty* in Manner and Form as you are *Indicted*? Or *Not Guilty*?

Gilb. Millington. *Not Guilty*.

Clerk. How will you be Tried?

Gilb. Millington. By *God and the Countrey*.

Clerk. God send you a good Deliverance.

Clerk.

Clerk. Robert Tichbourn, Hold up your Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest Indicted, and art now Arraigned? Or Not Guilty?

Tichbourn. *My Lord, I have been a very close Prisoner, without any Advice; I am altogether unable in Law to speak.*

Court. You know the Course hath been delivered to you by others, I will not trouble you with it. It is neither long nor short; the Law requires your Answer, Guilty? Or Not Guilty?

Tichbourn. *Spare me but one Word. If upon the Trial there shall appear to be Matter of Law shall I have the Liberty of Council for it? If I shall be put in my own Case to plead Matter of Law against those Noble Persons who plead on the other Part, I shall but prejudice myself, and therefore I crave Council.*

Court. You must plead Guilty, or Not Guilty.

Tichbourn. *I have no Reason nor Design to displease you. I am sure I am no ways able to plead with Equalness in Point of Law with those Noble Gentlemen. To the Matter of Fact this is my Plea, in Manner and Form that I stand Indicted I am Not Guilty.*

Clerk. How will you be Tried?

Tichbourn. *By God and the Countrey.*

Clerk. God send thee a good Deliverance.

Clerk. Owen Roe, Hold up your Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest Indicted, and art now Arraigned? Or Not Guilty?

Owen Roe. *My Lord, there hath been so much said already by others I think I need say no more. In Manner and Form as I am now Indicted I plead Not Guilty.*

Clerk. How will you be Tried?

Owen Roe. *By God and the Countrey.*

Clerk. God send you a good Deliverance.

Clerk. Robert Lilburn, hold up your Hand. How sayest thou? Art thou Guilty of the Treason whereof thou standest Indicted, and art now Arraigned? Or Not Guilty?

Robert

Robert Lilburn. *I desire, in regard that being so close a Prisoner for Twenty Days, that no body has been suffered to advise with me.*—

Lord Chief Baron. I must interrupt you. You must not mis spend the Time. Understand the Law. You must Plead Guilty, or Not Guilty.

Rob. Lilburn. *Will you give me leave to desire Council before I plead, to advise me touching my Plea.*

Clerk. Are you Guilty? Or Not Guilty?

Robert Lilburn. *I desire Council*—

Court. Take heed, if that be your Answer, *You desire Council*, and do not Plead, and that be Recorded, Judgment will pass against you. There is nothing to Plead, but *Guilty*, or *Not Guilty*. If *Not Guilty*, what you have to say will be heard.

Rob. Lilburn. *If you over-rule me I must submit.*

Court. Do not let such Language fall from you; it is improper.

The Law gives us a Rule. *The Prisoner must plead Guilty, or Not Guilty.*

Rob. Lilburn. *I say then in Manner and Form as I am Indicted I am Not Guilty.*

Clerk. How will you be Tried?

Rob. Lilburn. *By God and the Countrey.*

Clerk. God send you a good Deliverance.

Clerk. Bring to the Bar Adrian Scroop, John Carew, John Jones, Thomas Scot, Gregory Clement, and John Cook.

Who were brought accordingly, and being commanded, severally held up their Hands at the Bar.

The Indictment was read to the Persons at the Bar as before.

Clerk. *Adrian Scroop*, Hold up thy Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest Indicted, and art now Arraigned? Or *Not Guilty*?

Adr. Scroop. *My Lord*, Not Guilty.

Clerk. How will you be Tried?

Adr. Scroop. *By God and the Countrey.*

Clerk. God send thee a good Deliverance.

Clerk.

Clerk. *John Carew*, Hold up thy Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou art *Indicted*, and art now Arraign'd? or *Not Guilty*?

John Carew. *There is some special Matter in that Indictment, that ought not to be before* —

Court. Are you *Guilty*, or *Not Guilty*?

John Carew. *Saving to our Lord Jesus Christ his Right to the Government of these Kingdoms* —

Clerk. Are you *Guilty*, or *Not Guilty*?

John Carew. *I say I am Not Guilty*.

Clerk. How will you be tried?

John Carew. *How would you have me?*

Clerk. Will you be Tried by God and the Countrey?

John Carew. *I, if you will*.

Clerk. You must say the Words. How will you be Tried?

John Carew. *By God and the Countrey*.

Clerk. God send you a Good Deliverance.

Clerk. *John Jones*, Hold up thy Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

John Jones. *Not Guilty, my Lord*.

Clerk. How will you be Tried?

John Jones. *By God and the Countrey*.

Clerk. God send you a good Deliverance.

Clerk. *Thomas Scot*, Hold up thy Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

Th. Scot. *Truly I cannot call it Treason, and therefore I Plead Not Guilty*.

Clerk. How will you be Tried?

Th. Scot. *By God and the Countrey*.

Clerk. God send you a Good Deliverance.

Clerk. *Gregory Clement*, Hold up your Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*.

Greg.

Greg. Clement. *My Lord, I cannot excuse my self in many Particulars; but as to my Indictment, as there it is, I plead Not Guilty.*

Clerk. How will you be Tried?

Greg. Clement. *By God and the Countrey.*

Clerk. God send you a good Deliverance.

Clerk. *John Cook*, Hold up thy Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

John Cook. *I humbly conceive that this is now Time to move for Council for Matter of Law—*

Court. You know too well the manner of the Court. Are you *Guilty*? Or *Not Guilty*?

John Cook. *Not Guilty?*

Clerk. How will you be Tried?

John Cook. *By God and the Countrey.*

Clerk. God send you a good Deliverance.

Clerk. Bring *Edmund Harvey*, *Henry Smith*, *John Downs*, *Vincent Potter*, and *Augustine Garland*, to the Bar.

Who were brought accordingly, and being commanded, severally held up their Hands. The Indictment was Read to them.

Clerk. *Edmund Harvey*, Hold up your Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

Edmund Harvey. *Not Guilty, my Lord.*

Clerk. How will you be Tried?

Edmund Harvey. *By God and the Countrey.*

Clerk. God send you a good Deliverance.

Clerk. *Henry Smith*, Hold up thy Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou art *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

Henry Smith. *Not Guilty, my Lord.*

Clerk. How will you be Tried?

Henry Smith. *By God and the Countrey.*

Clerk. God send you a good Deliverance.

John

John Downs, Vincent Potter, Augustine Garland, upon the Question presently pleaded Not Guilty, and put themselves on God and the Country to be Tried.

• Clerk. Set to the Bar George Fleetwood, Simon Meyn, James Temple, Peter Temple, Thomas Wait, Hugh Peters, Francis Hacker, and Daniel Axtel.

Who being at the Bar, held up their Hands according to Order; afterward the Clerk read the Indictment against the said Persons; which being ended, he proceeded in this Manner.

Clerk. George Fleetwood, Hold up thy Hand. What sayest thou? Art thou Guilty of this horrid Treason, whereof thou standest Indicted, and art now Arraigned? Or Not Guilty?

George Fleetwood. My Lord, I came in upon His Majesties Proclamation.

Clerk. Art thou Guilty? Or Not Guilty?

George Fleetwood. I must confess I am Guilty, (and thereupon he delivered a Petition in to the Court, which he said was directed to his Majesty and the Parliament, and the Court did receive it accordingly.)

Clerk. Set him aside.

Clerk. Simon Meyn, Hold up thy Hand. What sayest thou? Art thou Guilty of this horrid Treason, whereof thou standest Indicted, and art now Arraigned? Or Not Guilty?

Simon Meyn. Not Guilty. I came in upon His Majesties Proclamation, my Lord.

Clerk. How wilt thou be Tried?

Sim. Meyn. By God and the Countrey.

Clerk. God send thee a good Deliverance.

Clerk. James Temple, Hold up thy Hand. What sayest thou? Art thou Guilty of this horrid Treason, whereof thou standest Indicted, and art now Arraigned? Or Not Guilty?

James Temple. Not Guilty.

Clerk. How wilt thou be Tried?

James Temple. By God and the Countrey.

Clerk. God send thee a good Deliverance.

Clerk.

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Clerk. *Peter Temple*, Hold up your Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and for which thou art now Arraigned? Or *Not Guilty*?

Peter Temple. *Not Guilty*.

Clerk. How wilt thou be Tried?

Peter Temple. By God, and the Countrey.

Clerk. God send thee a good Deliverance.

Clerk. *Thomas Wait*, Hold up your Hand. How sayest thou? Art thou *Guilty* of the Treason whereof thou standest *Indicted*, and for which thou art Arraigned? Or *Not Guilty*?

Th. Wait. *I desire to be heard a Word or Two*——

Court. There is a *Rule of Law* which is set to us, and you, that in all these *Cases* you are to plead *Guilty*, or *Not Guilty*. When you have pleaded, if *Not Guilty*, you may speak what you will in its proper Time.

Clerk. Are you *Guilty*? Or *Not Guilty*?

Th. Wait. *I pray let me be heard a Word. I am very unwilling to spend Time, knowing you have a great deal of Business. I am very unwilling to deprive myself of my Native Right. I shall speak nothing but that which is Truth.*

Court. Do not Preface then, but speak what you would say.

Th. Wait. *My Lord, my Case is different from the rest.*

Court. Whatsoever the Case be, you have no *Plea* to us, but *Guilty*, or *Not Guilty*. We can go no other Way. The *Law* sets out your *Plea*.

Th. Wait. *My Lord, I would speak one Word. There was a Great Peer of this Nation Indicted at Northampton, within these Two Years, for killing a Man. The Judges there—*

Court. You must plead *Guilty*, or *Not Guilty*. Pray who are you that should take this upon you more than all the rest? You must go the ordinary Way; *Guilty*, or *Not Guilty*? Are you *Guilty*? Or *Not Guilty*? We do not intend to prevent any Thing you have to say, but it must be proper.

Clerk. Are you *Guilty*, Or *Not Guilty*?

Th. Wait. *I cannot say I am Guilty.*

Court. How then?

Th. Wait. *I am Not Guilty.*

Clerk.

Clerk. How wilt thou be Tried ?

Th. Wait. By God and the Countrey.

Clerk. God send thee a good Deliverance.

Clerk. *Hugh Peters*, Hold up thy Hand. How sayest thou ? Art thou *Guilty* of the *Treason* whereof thou standest *Indicted*, and for which thou art now *Arraigned* ? Or *Not Guilty* ?

Hugh Peters. I would not for Ten Thousand Worlds say I am *Guilty*. I am *Not Guilty*.

Clerk. How will you be Tried ?

Hugh Peters. By the Word of God. (Here the People laughed.)

Court. You must say, By God and the Countrey. Tell him you that stand by him what he should say if he doth not know.

Clerk. How will you be Tried ?

Hugh Peters. By God and the Countrey.

Clerk. God send thee a good Deliverance.

Clerk. *Dan. Axtel*, Hold up thy Hand. What sayest thou ? Art thou *Guilty* of the *Treason* whereof thou standest *Indicted*, and for which thou art now *Arraigned* ? Or *Not Guilty* ?

Dan. Axtel. May it please your Lordships, I desire to have the *Freedom of an Englishman* ; that which is my *Right by Law and Inheritance* : I have something to offer in *Point of Law*.

Clerk. Art thou *Guilty* ? Or *Not Guilty* ?

Dan. Axtel. My Lords, give me *Leave to speak*. For the *Matter of the Indictment* I conceive is upon the *King's Death* ; that there is a *Commission of Oyer and Terminer* for you to sit : But in regard it was in *Pursuance of an Act of Parliament*, I conceive no *Inferior Court* ought to judge of it. I desire *Council*, it being of great and eminent *Concernment in Law* ; That ever any *Judges*, or any *Inferior Court*, should judge of the *Powers and Priviledges of a Parliament* ; and I pray that *Council may be assigned me*.

Clerk. Are you *Guilty* ? Or *Not Guilty* ?

Dan. Axtel. If the Court over-rule me, and I shall not have my *Liberty*, as an *Englishman*—

Clerk.

D

Court.

Court. The Course of Law is this; No Man can justify Treason. If the Matter which you have to say be Justifiable, it is not Treason; if Treason, it is not Justifiable; therefore you must go to the ordinary Course of the Law. You must Plead Guilty, or Not Guilty.

Dan. Axtel. I can produce many Precedents——

Court. Are you Guilty? Or Not Guilty? The Language is put into your Mouth. You have no other Words to express yourself by at this Time, but Guilty, or Not Guilty.

Dan. Axtel. Judge Heath had Council assign'd him upon the same Case.

Court. That is very strange; the same Case? What, was it for killing a King?

Dan. Axtel. If the Court will over-rule me I cannot help it.

Mr. Solicitor Gen. It may be this Gentleman may be deceived by a Mistake. It may be he knows not the Law, which your Lordships may be pleas'd to acquaint him with: That to stand Mute in High-Treason is all one as to Confess the Fact, and will have the same Sentence and Condemnation upon them, as if they had confessed it.

Lord Chief Baron. Then I'll tell you the Law, He that doth refuse to put himself upon his Legal Trial of God and the Countrey, is a Mute in Law; and therefore you must Plead Guilty, or Not Guilty. Let his Language be what it will, he is a Mute in Law.

Dan. Axtel. I do not refuse it.

Court. Then say.

Dan. Axtel. I am Not Guilty.

Clerk. How will you be Tried?

Dan. Axtel. By Twelve Lawful Men, according to the Constitutions of the Law.

Court. That is by God and the Countrey.

Dan. Axtel. That is not Lawful. God is not locally here.

Clerk. How wilt thou be Tried? You must say, By God and the Countrey.

Dan. Axtel. By God and the Countrey.

Clerk. God send you a good Deliverance.

Lord Chief Baron. Mr. Axtel, have you your Papers again?

Dan. Axtel. Yes, my Lord.

Lord Chief Baron. When your Indictment is read the Second Time, when you come to your Trial, you may take what Notes you please.

The

The Court then adjourned to the same Place till the next Morning Seven of the Clock.

October 11th. 1660.

The Court being Assembled, the Keeper was commanded to set the Prisoners to the Bar.

Thomas Harrison, Adrian Scroop, John Carew, John Jones, Gregory Clement, Thomas Scot, were brought to the Bar accordingly. After which Silence was Commanded.

Court. You that are the Prisoners at the Bar, if you, or any of you, desire Pen, Ink, and Paper, you shall have it; and if you, or any of you, will Challenge any of the Jury, you may when they come to be Sworn, and that before they are Sworn.

Sir Thomas Allen being call'd, was desired to look on the Prisoner, and lay his Hand on the Book: His Oath was then read to him, viz. You shall well and truly Try, and true Deliverance make, between our Sovereign Lord the King, and the Prisoners at the Bar, whom you shall have in Charge according to your Evidence. So help you God.

Sir Joshua Ash being next call'd, Mr. Scroop excepted against him.

Sir Jeremy Whichcot, Baronet, being next to be Sworn, Mr. Harrison excepted against him.

James Halley, Esquire, being next to be Sworn, Mr. Scot excepted against him.

Court. If you will not agree (speaking to the Prisoners) in your Challenges, we must be forc'd to Try you severally.

Henry Mildmay, Esq; being called next, Mr. Scroop excepted against him.

Court. We must needs Try them severally, therefore set them all aside but Harrison.

Court. Gentlemen, you that are excepted must not depart the Court.

Sir Joshua Ash being again call'd, was excepted against by Mr. Harrison.

Sir Jeremy Whichcot, Baronet, James Halley, Esq; Henry Mildmay, Esq; Christopher Abdy, Esq; } *Being called again, were severally excepted against by the Prisoner.*

Court. Mr. Harrison, You know the Law. You must say, I Challenge him.

Mr. Harrison. I shall, Sir.

D 2

Ralph

Ralph Hartley being next called, and being very sick, humbly prayed to be excus'd by the Court, which was granted.

Arthur Newman was called next.

Mr. Harrison. *May I not ask of what Quality he is?*

Court. No, Sir, you are to Challenge him, or not to Challenge him.

Mr. Harrison. *I Challenge him.*

Thomas Blish was next called, and also Challenged.

(Here the People seem'd to laugh.)

Mr. Harrison. My Lord, I must make Use of my Liberty in this Case.

Court. God forbid.

Then Grover, Robert Clark, and Richard Whalley, were called, and by Mr. Harrison Challenged.

Court. Mr. Harrison, you know how many to Challenge; if you go beyond the Number at your own Peril be it.

Mr. Harrison. My Lord, pray tell me what it is.

Court. You say very well; God forbid but you should know. You may Challenge Five and Thirty Peremptorily, if you go beyond you know the Danger.

Mr. Harrison. My Lord, I do not this to keep you off from the Business.

William Vincent, and Henry Twiford, were then called, and Challenged.

John Lisle was next called.

Mr. Harrison. *I do not know him.*

Mr. Lisle. Nor I you, Mr. Harrison. *He was Sworn.*

Thomas Franklin Sworn.

Thomas Winter Challenged.

Richard Nichol Sworn.

Moyce being sick, prayed Excuse, which was granted accordingly.

Richard Cheyney Challenged.

Allen Parsons Challenged.

Henry Edlin Called.

Mr. Harrison. *I challenge him.*

Mr. Harrison. *Let him be Sworn.*

Court. No, No. *(Whereupon he was set aside.)*

Mr. Harrifon. If I have any Apprehension or Knowledge of them, that's the Thing that leads me to it, as touching this Man, he may be Sworn.

Court. When he is Challenged he cannot be recalled.

Mr. Harrifon. I am content.

Samuel Greenhill Sworn.

Thomas Bide Challenged.

John Page Challenged.

Richard Rider Challenged.

Mr. Harrifon. Left I may run into an Hazard, in making use of that Liberty which the Law gives me in this Case, and having not taken Notice of any Persons Challenged, I mean as to the Number, I desire your Officer that takes Notice may acquaint me with the Number.

Court. You shall know it; God forbid the contrary.

Edward Rolph was called next.

Mr. Harrifon. Mr. Rolph is his Name? Let him be Sworn.

Francis Beal Challenged.

John Kirk Challenged.

Charles Pitfield Challenged.

John Smith Challenged.

Bell Sworn.

Edward Franklin Challenged.

William Whitcomb Challenged.

Samuel Harris Sworn.

John Collins Challenged.

Thomas Snow Sworn.

William Blunt Challenged.

George Righ Challenged.

John Nichol of Finchley Sworn.

Timothy Taylor Challenged.

Thomas Fruin Challenged.

Richard Abel Challenged.

Thomas Morris Sworn.

Ambrose Scudamore Challenged.

Ralph Halsel Challenged.

George Tirry Challenged.

Court. You have Challenged Thirty-three already.

Mr. Harrifon. I pray the Names may be read to me, to see if it be so.

Court. When you come to Thirty-five you shall have the Names Read.

John Galliard, Challenged.

Thomas Swallow, Challenged.

Court. Now Read their Names to him.

Which were read accordingly. In all Thirty-five Challenged.

George Pickering was next called, and sworn.

Then they were called over who were admitted, viz.

Sir Thomas Allen, John Lisle, Thomas Francklin, Richard Nichol, Samuel Greenhil, Edward Rolph, Bell, Samuel Harris, Thomas Snow, John Nichol, Thomas Morris, George Pickering; and sworn.

Proclamation was then made.

If any Man can inform my Lords, the King's Justices, the King's Serjeant, or the King's Attorney, before this Inquest be taken, let them come forth, and they shall be heard, for now the Prisoner stands at the Bar upon his Deliverance. And all those bound by Recognizance to appear, let them come forth, and give their Evidence, or else to forfeit their Recognizance.

George Masterson, James Nutley, Robert Coytmore, Holland Simson, and William Jessop, Witnesses, were called.

Court. Gentlemen, that are not of the Jury, pray clear the Passage. The Prisoner is here for Life and Death, let him have Liberty to see the Jury.

Clerk. Thomas Harrifon, Hold up thy Hand.

*Clerk. Look upon the Prisoner, you that are Sworn. You shall understand that the Prisoner at the Bar stands Indicted by the Name of Thomas Harrifon, late of Westminster, in the County of Middlesex, Gentleman, for that he, together with John Lisle, &c. (here the Indictment was read) upon which Indictment he hath been Arraigned, and thereunto hath pleaded Not Guilty, and for his Trial hath put himself upon God and the Countrey, which Countrey you are. Now your Charge is to enquire, whether he be Guilty of the High-Treason in Manner and Form as he stands Indicted, or Not Guilty. If you find that he is Guilty, you shall enquire what Goods and Chattels he had at the Time of committing the said Treason, or at any Time
subhence.*

subhence. If you find that he is Not Guilty, you shall enquire whether he did fly for it; if you find that he fled for it, you shall enquire of his Goods and Chattles, as if you had found him Guilty: If you find that he is Not Guilty, nor that he did fly, you shall say so, and no more. And take heed to your Evidence.

Mr. Keeling enforced the Charge at large: After whom Sir Heneage Finch, his Majesties Solicitor-General, in these Words.

MA Y it please your Lordships, We bring before your Lordships into Judgment this Day the *Murderers of a King*. A Man would think the Laws of God and Men had so fully secured these *Sacred Persons*, that the *Sons of Violence* should never approach to hurt them: For (*my Lord*) the very *Thoughts* of such an Attempt hath ever been presented by all *Laws*, in *all Ages*, in *all Nations* of the World, as a most unpardonable Treason. *My Lord*, This is that that brought the *Two Eunuchs* in the *Persian Court* to their Just Destruction; *Voluerunt insurgere*, says the Text, and yet that was enough to *Attaint* them. And so (*my Lords*) it was by the *Roman Laws* too, as *Tacitus* observes; *Qui deliberant, desciverunt*. To *Doubt* or *Hesitate* in a Point of *Allegiance*, is direct *Treason* and *Apostasie*. And upon this Ground it is, that the *Statute* upon which your *Lordships* are now to proceed hath these express Words; *If a Man doth compass or Imagine the Death of the King, &c.* Kings, who are *God's Vicegerents upon Earth*, have thus far a kind of Resemblance of the *Divine Majesty*, that their Subjects stand accountable to them for the *very Thoughts* of their Hearts. Not that any Man can know the *Heart*, save God alone; but because when the *Wicked Heart* breaks out into any *open Expressions*, by which it may be judged, 'tis the *Thoughts* of the Heart which makes the *Treason*; the *Overt-Act* is but the *Evidence* of it.

My Lords, This Care and Caution is not so to be understood, as if it were the *Single Interest* of *One Royal Person* only. The Law doth wisely judge and foresee, that upon the *Life* of the King depends the *Laws* and *Liberties*, the *Estates* and *Properties*, the *Wealth* and *Peace*, the *Religion*, and in Sum, the *Glory* of the Nation.

My Lords, This Judgment of the Law has been verified by a *sad* Experience; for when that *Blessed King* (whose *Blood* we are now making *Inquisition* for) was *untimely* taken away, *Religion* and *Justice* both lay buried in the *same* Grave with him; and there they had slept still, if the *Miraculous* Return of our *Gracious Sovereign* had not given them a *New Resurrection*.

My Lords, My Lord Coke in his *Comment* upon this *Statute* has one *Conceit*, which is somewhat *Strange*; I am sure it is very *New*; he seems to think that it would have added to the *Perfection* of this *Law* if there had been a *Time* limited for the *Party* to be accused. But certainly the *Work* of this *Day* has quite confuted that *Imagination*. For here is a *Treason* that has so long *out-fac'd* the *Law*, and the *Justice* of this *Kingdom*, that if there had been any *Time* of *Limitation* in the *Statute*, there would have been no *Time* nor *Place* left for *Punishment*. And if this *Treason* had but once grown up to an *Impunity*, it might perhaps have drawn the *Guilt* of that *Innocent Blood*, and with it the *Vengeance* due to it, upon the whole *Nation*.

The *Scope* of this *Indictment* is for the *compassing* the *Death* of the *King*, the rest of the *Indictment*, as the *Usurping Authority* over the *King's Person*, the *Assembling*, *Sitting*, *Judging*, and *Killing* of the *King*, are but so many several *Overt-Acts* to prove the *Intention* of the *Heart*. We are not bound (under *Favour*) to prove every one of these against every particular *Person* who is *Indicted*; for he that is in at *one*, is *Guilty* in *Law* of all the rest, as much as if he had struck the *Fatal Stroke* itself: Nay (under *Favour*) if we can prove any other *Overt-Act* besides what is laid in the *Indictment*, as the *encouraging* of the *Soldiers* to cry out, *Justice, Justice*; or *Preaching* to them to go on in *this Work*, as *Godly* and *Religious*; or any other *Act* of all that *Catalogue* of *Villanies*, for which the *Story* will be for ever *Infamous*; this may be given in *Evidence* to prove the *Compassing* and *Imagining* the *King's Death*. The *Conclusion* of this *Indictment* alledges the *Fact* done to be to the *great Displeasure* of *Almighty God*, and to the *great Disgrace* of the *People* of *England*. A *Truth* so clear and known, that it can neither be *heightened* by any *Aggravation*, or *lessened* by any *Excuse*. AS

As for the *Fact* itself, with the *Manner* of it, I shall not need to open it at large, for these Things were not done in a *Corner*; every true *English* Heart still keeps within itself a bleeding *Register* of this *Story*; only (*my Lords*) in the Way to our *Evidence*, with your *Lordships* Favour, this I think may be fit to be said.

First, for the Year 1648, (for that was the *Fatal* Year of this King, and beyond that Year we shall not now enquire,) I say whatsoever in the Year 1648 could have been done by a *Parliament* to save the *Life* of a King, was done in this *Case*.

They opened the Way to the *Treaty* in spite of the *Army*; and while these Sons of *Zerviah*, who were too hard for them, were engaged in *Service* in the *Remoter* Parts, they hastened the *Treaty* as much as was possible; the *Debates* upon his Majesties *Concessions* were Voted a good Ground for *Peace*; notwithstanding the *Remonstrances* of the *Army* still flew about their *Ears*; and notwithstanding the *Oppositions* of a fearful and unbelieving Party of the *House of Commons*, whom the *Army* had frightened into an *Awful* and a *Slavish* Dependence upon them. And when nothing else could be done for him, they were so true to the *Obligations* they lay under, that they resolved to fall with him, and did so. For the *Army*, who saw the *Treaty* proceed so fast, made as great haste to break it. They seize upon the Blessed Person of our Sacred King by Force, and bring him to *London*; and here they force the *Parliament*, shut out some Members, imprison others, and then called this wretched little Company which was left a *Parliament*. By this, and before they had taken upon them the Boldness to dissolve the House of *Peers*, they pass a *Law*, and erect, forsooth! an *High Court of Justice*, as they call it, a *Shambles* of Justice, appoint *Judges*, *Advocates*, *Officers*, and *Ministers*, sit upon the *Life* of the King. Now they *Speak out* and *Expound* their own *Declarations*, and tell us what that was which before they had demanded in obscure Terms, when they called for *Justice* against all *Delinquents*. Now they speak plainly what they mean, and call this Blessed King, this Glorious Saint, the *Grand Delinquent*:

—Hac Acies victum factura Nocentem est.

My Lords, When they had thus proceeded to appoint their *Judges, Officers, and Court*, then they call *this* Person, their only *Liege Lord* and *Sovereign* to the *Bar*, and by a *Formal Pageantry* of Justice, proceed to *Sit* upon him, *Arraign, Try, Sentence, Condemn, and Kill*, (I had almost said *Crucifie*,) him, whom they could not but know to be their *King*; and all this against the *clearest* Light, the *sharpest* Checks, and most *through* Convictions of *Conscience*, that ever Men resisted. And yet in this *Moment* of *Time*, such was the *Majesty* and *Innocence* of our Gracious Sovereign, that the *People* followed him with *Tears* in their *Eyes*, and *Acclamations* in their *Mouths*, *God save the King*; even then, when the *Soldiers* were ready to *fire* upon them who did either *look* sadly, or *speak* affectionately. And yet it will appear upon our *Evidence* too, that so few of the very *Common Soldiers* could be brought to approve these *Proceedings*, or to cry out *Justice*, that their *Officers* were fain by *Money*, or *Blows*, or both, to bring a great many to it.

My Lords, The *Actors* in this *Tragedy* were *many, very many, so many*, that sure their Name is *Legion*, or rather many *Legions*. And certainly (*my Lords*) when we shall consider the *Thing* that they have done, we cannot but look upon it as a *Villany* which had in it all the *Ingredients* to make it detestable, that it was possible for the *Counsel* of *Men*, or *Devils* either, to put together. But yet, if any *Thing* can be of a deeper *Dye* than the *Guilt* of that *Sacred Blood*, where-with they stand *Polluted*, methinks their *Impudence* should make them more odious than their *Treason*. It was the *Destruction* of *God's Anointed*, in the Name of the *Lord*. It was the *Murder* of a most *Blessed* and *Beloved Prince*, in the Name of his *People*. Him whom they had taken the transcendent *Boldness* to *imprison*, as the *Author* of the *War*, they put to *death*, because he would have been the *Author* of our *Peace*; and that with so much *Scorn* and *Indignity*, that some of them were not ashamed to spit in the *Face* of our *Lord* and *Sovereign*. And when they had thus *quenched the Light* of *Israel*, *Darkness* and *Confusion* did overspread the *Face* of the *Land*; many *Poor Subjects* at *Home*, and some *Protestants* in *Foreign Nations*, at the very *News* of it fell down

down Dead; as if this Excellent King had been in a *Natural* as well as a *Religious* Sence, *the Breath of our Nostrils*, the *Anointed of the Lord*, who was taken in their Pits. The *Judges*, *Officers*, and other immediate *Adors* in this pretended *Court*, were in Number about *Fourscore*, of these some Four or Five and Twenty are Dead, and gone to their own Place. ^{24 or 25}
 The *God of Recompences* hath taken the Matter so far into his own Hands; and who knows but that it might be one dreadful Part of his *Vengeance* that they died in *Peace*? Some Six ^{6 or 7} or Seven of them, who are thought to have sinned with less *Malice*, have their *Lives* spared indeed, but are like to be brought to a severe *Repentance* by future *Penalties*. Some Eighteen or Nineteen have fled from Justice, and wander to and fro about the World with the Mark of *Cain* upon them, are perpetual Trembling lest every *Eye* that sees them, and ev'ry *Hand* that meets them, should fall upon them. Twenty nine Persons do now expect your *Justice*. Amongst them the First that is brought is the *Prisoner* at the *Bar*, and he deserves to be the First; for if any Person now left alive ought to be stil'd the *Conductor*, *Leader*, and *Captain* of all this Work, that's the *Man*. He (*my Lord*) brought the King up a *Prisoner* from *Windfor*, but how, and in what *Manner*, with how little *Duty*, nay, with how little *Civility*, to a Common Person, you will hear in Time. He Sat upon him, Sentenced him, he Sign'd the *Warrant* first to call that *Court* together, then the *Bloody Warrant* to cut off his Sacred Head. Against him, as against all the rest, our *Evidence* will be of Two Sorts; Witnesses *Viva voce*, that shall first prove to your *Lordships* that every Person now in *Question* did sit in that *Court*, when their King stood as a *Prisoner* at the *Bar*. We shall prove that the *Precept* by which this pretended *Court* was summon'd, was not obeyed and executed, till it had had the *Hands* and *Seals* of most of the pretended *Judges*; among the rest the *Hand* of the *Prisoner* at the *Bar* will be found there. We shall prove his *Hand* to the *Bloody Warrant* for severing the Sacred Head of our Blessed Sovereign from the Body, and then some *Circumstances* of his *Malice*, and of his *Demeanour*. And after we have done with our Witnesses *Viva voce*, if we have Occasion to use *Records* of *Parliament*, we shall shew them
 too;

too ; for we have the *Originals*, or *Authentick Copies*. But now we shall proceed to our *Evidence*.

Proclamation was made for Silence.

Sir Edward Turner. My Lords, *The Service of this Day* doth call to my *Memory* the Story of good King Amaziah. We read in Holy Writ, that his Father, King Joash, was murdered, and murdered by his own Subjects ; but we read further, that when Amaziah had regain'd the Crown, was settled in the Government, he slew those that slew his Father. He did go down into Edom, the Valley of Salt, and there he did slay Ten Thousand. The Work of this Day doth very much resemble that Action. Our Good and Gracious King, his Father of Blessed Memory, and our Father, his Natural, and our Politick, Father, to whom our Natural Allegiance was due, was murdered, and by his own Subjects. But, my Lords, this was not a National Crime ; and our Good and Gracious Sovereign hath done us that Honour and Right to vindicate us in Foreign Nations ; and now he is come Home in Power and Glory, he does continue in the same Mind : That's the Reason we are not now slain by Thousands, but that those Miscreants are gathered up here and there that did commit the Offence, and would have involved the Nation in a common Infamy.

Gentlemen of the Jury, Your Time to enquire of this Matter is precious, more precious than my Words, else I would repeat to you the History of that Tragedy, at least that Summary that was entred in the Black Book, or the Journals of that they then called a Parliament. It shall suffice to tell you, and that most truly, that it was but an handful of Men in respect of the whole Nation that did contrive and design this damnable and traitorous Plot, to subvert the Laws, and change the Government, of this well-govern'd Nation. In Prosecution of which they did cast abroad, and spread forth, Jesuitical Maxims, Damnable and Diabolical Principles, to intoxicate the People ; and when their Heads were troubled, they were easily led into Arms, where after some Time they grew drunk with Successes ; and when they had drunk too much of the Loyal Blood of the People, then they thirsted for the Royal Blood also. I do confess we read in Stories that Kings have before this Time been murdered ; some in our Nation, as King Richard the Second, and Edward the Third ;
and

and in other Nations. But the Actors of these Murthers were modest to these. They did it in Private, these in the Face of the Sun, and the People; but it was those People, Gentlemen, they had corrupted with Shares in their Robberies and Villanies. They pretended it was in a Way of Justice; but you must know no Justice can be executed upon the Person of the King. Touch not mine Anointed, saith God himself.

My Lords, I do read in the Roman Story, that both amongst them, and other Nations, there was no Law against Parricide. It was not thought that any Man was so Unnatural and Devilish to destroy his Father. But we do find among the Romans such a Fact was committed, and then they were at a Loss to punish it. The Way was this that was found out; the Offender they sewed into a Mail of Leather, so close that no Water could get in; when they had done, they threw him into the Sea; by this denoting, the Offender was not worthy to tread upon the Ground, nor to breathe in the Air, nor to have the Benefit of any of the Four Elements, nor the Use of any of God's Creatures, and so be starved.

Gentlemen, Parricide and Regicide differ not in Nature, but in Degree. Parricide is the killing of the Father of one, or a few, Persons; Regicide the killing the Father of a Countrey. What Punishment then is suitable to this Offence? Gentlemen, The Prisoner at the Bar is accus'd of this Offence, and now to be Tried by you: But before we enter upon the Evidence, I must with the Leave of the Court inform you, that tho' the Indictment contains many Circumstances and Gradations in the Treason, yet the Imagining and Compassing the Death of our late Sovereign is the Treason to which we shall apply our Evidence; this being, both by the Common-Law, and by the Statute of the 25th of Edward the 3d, the Principal Treason to be enquired of. And the other Circumstances in the Indictment are but so many Matters to prove the Overt-Act, the Consultations, the Assuming Power to Try and Condemn the King, the Assault upon him, and the Fatal Blow that was given him, are but so many Demonstrations, and open Acts, proving the first Treasonable Design of the Heart.

It will be enough for you, and so my Lords will tell you, if we prove the Treason itself, which is the Compassing and Imagining

gining the Death of the King, though we fail in some of the Circumstances laid in the Indictment. I do not speak this as if we should fail in any; but it is not necessary to prove them all, if we prove any you are to find the Prisoner Guilty. I am not willing to hold your Lordships too long in the Porch, but desire to descend into the Body of the Business; and so we shall call our Witnesses, and doubt not but to prove, that this Man at the Bar was the first, and not the least, of these Offenders.

Mr. George Masterfon was called.

Mr. Harrison. When I was before your Lordships Yesterday, I offered something very material, in reference to the Jurisdiction of the Court; but you told me according to the Rule, I must plead Guilty, or Not Guilty; and what I had to offer should be heard in its proper Place. I now desire to know, whether it be proper now to deliver myself, before you proceed to the calling of Witnesses, for I would go the best Way, and would not willingly displease you.

Lord Chief Baron. What was promised you Yesterday God forbid but you should have it. But I think it will be best for you to hear the Evidence, and then what you have to say you shall be fully heard.

Mr. Harrison. I am content.

Whereupon George Masterfon, Stephen Kirk, Francis Hearn, William Clark, Robert Coytmore, and James Nutley, were called, and sworn.

Council. Mr. Masterfon, whether did the Prisoner at the Bar sit in that which they called the High Court of Justice, to Sentence the King, or no? Pray tell my Lords, and the Jury thereof, and what else you know of the Matter.

Mr. Masterfon. Upon the Oath I have taken, (my Lords, and Gentlemen of the Jury,) I saw the Prisoner, Th. Harrison, sit in that which they called the High Court of Justice, upon the 27th Day of January, in the Year 1648, to Sentence the King.

Council. Was it the Day the Sentence was passed against the King?

Mr. Masterfon. It was the Day of the Sentence, the 27th of Jan. 1648.

Council. Can you say any Thing else?

Mr.

Mr. Masterfon. I do (Sir) further remember, that when the Clerk of the Court (as he was called) read the Sentence against the King, and said, it was the Sentence of the whole Court, I saw the Prisoner at the Bar, together with others, stand up, to my Apprehension, as assenting to it.

Council. Was there not Direction that all should stand up as Assenting?

Mr. Masterfon. I do not know that; but when the Sentence was read several of them did stand up, and he among the rest, as Assenting to the Sentence, as the Spectators understood.

Council. Mr. Clark, What do you say to the same Question?

Mr. Clark. My Lords, and Gentlemen of the Jury, I remember I saw the Prisoner at the Bar sit several times in the Court of Justice, as they called it; particularly on the 23d and 27th of January, 1648, as I took Notice of it in a Book.

Council. Was that the Day of the Sentence?

Mr. Clark. Yes, my Lord.

Council. What say you to that of the rising of those Persons in the Court?

Mr. Clark. I remember they all rose, but I did not take particular Notice then of the Prisoner.

Council. Mr. Kirk, You hear the Question. Did you see the Prisoner at the Bar in Westminster-Hall, sitting upon the Bench in that which they called the High Court of Justice, when the King stood Prisoner at the Bar there?

Mr. Kirk. My Lord, I did see the Prisoner at the Bar sit several Days in that which they called the High Court of Justice; I was there every Day of their Sitting.

Council. Do you remember he was there on the 27th of Jan. 1648?

Mr. Kirk. I do, Sir.

Council. Tell the Jury what was the Work there.

Mr. Kirk. It was Sentence. I did take the Names of all those Gentlemen that did appear in the Court on that Day, the 27th of Jan. 1648, and amongst the rest I took a Note of that Gentleman's Name, as being present.

Council.

Council. Whereas these Gentlemen (Mr. *Masterfon* and Mr. *Clark*) have declared, that, as Assenting to the Sentence, they all stood up; did you see them stand? And whether by Direction, or no?

Mr. *Kirk.* As for the Direction I know nothing of it; but the Members then present in the Court, (after Sentence was read,) as far as my Eyes could perceive, stood up unanimously, I suppose, as Assenting to the Sentence.

Court. Mr. *Nutley*, Did you know the Prisoner at the Bar? Have you seen him sit in *Westminster-Hall* at any Time upon the Bench when the King was brought as a Prisoner to the Bar?

Mr. *Nutley.* My Lords, and Gentlemen of the *Jury*, I saw the Prisoner at the Bar several Days sit there, amongst the rest of the Judges, as a Judge, I suppose. To the best of my Remembrance he sat there Four Days together.

Court. Was he there upon the Day of the Sentence?

Mr. *Nutley.* I did take Notes, My Lord, that Day in the Court, and I find he did sit that Day.

Court. Do you know any Thing more of the Prisoner at the Bar?

Mr. *Nutley.* Thus much I know concerning the Prisoner at the Bar, my Lord; the first Day that they sat in Publick was (as I remember) the 20th of *Jan.* 1648. some few Days afore that, there was a Committee that sat in the *Exchequer-Chamber*, and of that Committee the Prison at the Bar was one of the Members. I do remember well it was in the Evening, they were lighting of Candles, they were somewhat private. This Gentleman was there, I saw him; for through the Kindness of Mr. *Phelps*, who was then Clerk to that Committee, I was admitted, pretending first to speak with the said Mr. *Phelps*, and that I had some Business with him, and so (as I said before) I was admitted into the Committee-Chamber: Being there, I did observe some Passages fall from the Prisoner at the Bar; the Words were to this Purpose: He was making a Narrative of some Discourses that passed between his late Majesty and himself, in coming between *Windsor* and *London*, or *Hurst Castle*, I know not well whether. My Lord, that Passage that I observed to fall from him in that Discourse

was

was this : He said, That the King, as he sat in the Coach with him was importunate to know what they intended to do with him.

• Mr. Harrifon. *In the Coach was it ?*

Mr. Nutley. Yea, Sir, it was in the *Coach*. He told the rest of the Company (as I said before) that the King asked, *What do they intend to do with me ? Whether to murder me, or no ?* And I said to him, *There was no such Intention, as to kill him we have no such Thoughts. But (saith he) the Lord hath reserved you for a Publick Example of Justice.* There is one Word more, my Lords, and that is this, which I heard from this Prisoner at the Bar, That the Reason and End of their Meeting together at that Committee was concerning the Charge. So much I observ'd. It was concerning the Contracting of the *Impeachment*. I observ'd that some found fault with the Length of that, as it was drawn. They were offering some Reasons to Contract it, and I heard this Prisoner at the Bar vent this Expression, *Gentlemen, it will be good for us to Blacken him what we can ; pray let us Blacken him : Or Words to that Purpose.* I am sure *Blacken* was his Word.

Mr. Windham. Mr. Nutley, you speak of an *Impeachment*. Against whom was that *Impeachment* ?

Mr. Nutley. It was against his late Majesty, the King.

Council. And it was to draw up that *Impeachment* so as to *Blacken* him. Was it so ?

Mr. Nutley. Yes, Sir.

Mr. Coytmore Sworn.

Mr. Windham. Did you see the Prisoner at the Bar sitting in that which they call'd the *High-Court of Justice* on the Day when the King was Sentenced, or at any other Time ? Pray tell my Lords and the *Fury*.

Mr. Coytmore. My Lords, and Gentlemen of the *Fury*, I was in that which they called the *High-Court of Justice* Three or Four Times. I saw this Gentleman either once or twice sitting there.

Council. Do you know any Thing more.

Coytmore. No really : I came only to hear and see what they were doing, and I did there see him, I think, several Days ; I am sure once.

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Council.

Council. Did you see him on the Seven and Twentieth of January 1648. sitting there, which was the Day of the Sentence? *Coytmore.* I cannot call that to Memory.

Council. Do you know of any Expressions that the King should be an Example of Judgment?

Coytmore. No, my Lords.

Mr. Windham. My Lord, in the next Place we shall shew that Instrument that was made under the Hand and Seal of the Prisoner at the Bar, as well as others, for Execution of the King, that Bloody Warrant. But first we will ask this Witness another Question.

Council. Did you see the Prisoner at the Bar sit on the Bench as an ordinary Spectator, or as one of the Judges?

Coytmore. He was in the Court, sitting among the rest of the Judges, as one of them.

Mr. Solicitor. My Lords, we will prove that this Prisoner at the Bar was one of them that took upon him the conducting of the King, and that the King was in his Custody; and to the High Court of Justice also.

The Lord Newburgh Sworn.

Council. Pray, my Lord, give yourself the Trouble to raise your Voice, and to tell my Lords and the Jury what you know of the Prisoner at the Bar; the Part that he acted in bringing up the King.

Lord Newburgh. I was then living at his Majesties Lodge at Bagshot, when the Prisoner at the Bar brought the King from Hurst-Castle to London. He was the Person that commanded the whole Party; and when the King by the Way went to Dinner, by his Order there were Centries set at every Door where he was. When the King had dined he carried him to Windsor, and appointed several of his Officers to ride close to the King, as he was riding, lest he should make his Escape from them.

Council. That was an Imprisonment itself, and so a Treason.

Mr. Windham. My Lords, we shall now produce to you Two Instruments which were made, the one for Convening and Summoning the Assembling of that which they called the High-Court of Justice, and shew this Prisoner's Hand and Seal to that;

that ; and then shew you likewise that which was the Con-
summating of all, that *Bloody Warrant* for *Execution* of his
late Majesty of Blessed Memory, with the *Hand* and *Seal* of
the Prisoner at the Bar unto it amongst others.

Mr. Solicitor. My Lords, it will be fit before this to give
you an Account how we came by these *Instruments*.

Mr. Jessop Sworn.

Council. Shew to Mr. Jessop the *Warrant* for summoning
that Court.

Mr. Solicitor. Mr. Jessop, pray tell my Lords and the Jury
how you came by that *Instrument* you have in your Hand.

Mr. Jessop. May it please your Lordships, I having the Ho-
nour to attend the *House of Commons*, the House was pleased
to make an *Order* that Mr. Scobel should deliver into my
Hands all such *Books* and *Records*, *Papers*, and other Things,
as did belong to the *House of Commons* ; and in Pursuance to
that *Order* I did receive amongst other Things this *Instru-*
ment, as a Thing that had been formerly in his Hands, as
Clerk of the *House of Commons*.

Mr. Solicitor. We desire it may beread, my Lords.

Court. Pray first prove his Hand.

Mr. Harrison. I desire to know what is offered to be read.

Court. It is a *Warrant* that you Sealed amongst other pre-
tended Judges of your *High Court of Justice* (as you call'd it)
for Trial of the King, for summoning that Court.

Council. Mr. Kirk, have you seen the Hand-writing of the
Prisoner at any Time ?

Mr. Kirk. I have very often seen it, and am well acquaint-
ed with it ; and so far as it is possible a Man can testifie
touching the Hand of another Person, I do verily believe this
to be his Hand.

Council. How came you to be acquainted with his
Hand ?

Mr. Kirk. As he was a Member of the *House of Commons*,
and my Employment having relation thereto, I have seen him
set his Hand several Times.

Mr. Farrington Sworn.

Council. Do you believe that this is the Hand-writing of
the Prisoner at the Bar ? (The Instrument being shewed him.)

Mr. Farrington. I did not see him write it, *my Lords*, but I believe it to be his, for I have often seen his *Hand-writing*. It is his *Hand* so far as possibly a Man can know any Person's *Hand* that did not see him write.

Mr. Harrison. *I desire to see the Instrument*. Which being shew'd to him, he said, *I believe it is my own Hand*.

Council. That's the Warrant for Summoning that Court that he owns his *Hand* to.

Court. Shew him the other *Instrument*.

That being for Execution of the Sentence; it being shew'd him,

Mr. Harrison. *I do think this is my Hand too*.

Council. If you think it the *Fury* will not doubt it. That's the *Bloody Warrant* for Execution; and we desire they may be both read.

Mr. Harrison. *My Lords, do these Learned Gentlemen offer these as being any Records?*

Council. No, but as your own *Hand-writing*.

Mr. Harrison. *If you do not read it as a Record, I hope your Lordships will not admit of any thing of that kind against me*.

Council. He knows that a *Letter* under his *Hand* and *Seal* may be read in a Court. We do not offer it as a *Record*, but prove it by Witnesses that it is your *Hand writing*.

Court. You have confessed these to be your *Hands*. Whether they are *Records*, or no; whether *Papers*, or *Letters*, they may be read against you. You Sign'd the *Warrant* for Convening together those which you call'd the *High-Court of Justice*, and you Sign'd the other *Warrant* for putting the King to Death. You do confess these Two Things. We do not see what further Use may be made of them.

Court. You might observe how the *Indictment* was for the *Imagining, Compassing, and Contriving*, the King's Death. To prove that there must be some *Overt-Act*, and a *Letter* under the Party's Hand is a sufficient *Overt-Act* to prove such *Imagination*; to that End these are used.

Mr. Harrison. *I do not come to be denying any Thing that in my own Judgment and Conscience I have done or committed, but rather to be bringing it forth to the Light*.

Court.

Court. Sir, you must understand this by the Way, this you must take along with you, that these are read, not as any Thing of Authority in themselves, or as us'd to any other Purpose, but as an Evidence of the *Fact* against you: Take that along with you.

(*The Two Bloody Warrants for Trial, and for Execution of his Majesty, were here read, the latter of which is as followeth.*)

At the High-Court of Justice for the Trying and Judging of Charles Stuart, King of England, Jan. 29. 1648.

W Hereas *Charles Stuart*, King of *England*, is and standeth Convicted, Attainted, and Condemned, of High-Treason, and other High Crimes; and *Sentence* upon *Saturday* last was pronounced against him by this Court, to be put to Death, by the Severing his Head from his Body, of which *Sentence* Execution yet remaineth to be done. These are therefore to will and require you to see the said *Sentence* executed in the open Street before *White-hall* upon the *Morrow*, being the 30th Day of this Instant Month of *January*, between the Hours of *Ten* in the Morning and *Five* in the Afternoon of the same Day, with full Effect; and for so doing this shall be your sufficient *Warrant*. And these are to require all Officers and Soldiers, and other the good People of this Nation of *England*, to be assistant unto you in this Service. Given under our Hands and Seals.

To Colonel *Francis Hacker*, Colonel *Huncks*, and Lieutenant-Colonel *Phayre*, and every of them.

Scaled and Subscribed by

John Bradshaw, Lord President.

Jo. Hewson.

Per. Pelham.

John Danvers.

Mich. Livesay.

Jo. Bourchier.

Hen. Ireton.

Thomas Grey.
 Oliver Cromwel.
 Edward Whalley.
 John Okey.
 Thomas Pride.
 Hen. Smith.
 Peter Temple.
 Tho. Harrison.
 Isaac Ewer.
 Val. Wauton.
 Simon Meyn.
 Tho. Horton.
 Jo. Jones.
 Jo. Moor.
 Hardress Waller.
 Gilbert Millington.
 Geo. Fleetwood.
 Jo. Alured.
 Rob. Lilburn.
 Wil. Say.
 Rich. Dean.
 Rob. Titchbourn.
 Hum. Edwards.
 Dan. Blagrove.
 Owen Roe.
 Will. Puefroy.

Thomas Maleverer.
 Jo. Blakestone.
 Jo. Hutchinson.
 Will. Goff.
 Adrian Scroop.
 James Temple.
 Aug. Garland.
 Edmund Ludlow.
 Hen. Marten.
 Vincent Potter.
 Will. Constable.
 Rich. Ingoldsby.
 Will. Cawley.
 Job. Barkstead.
 Anth. Stapeley.
 Greg. Norton.
 Tho. Challoner.
 Tho. Wogan.
 Jo. Ven.
 Greg. Clement.
 Jo. Downs.
 Tho. Wayt.
 Tho. Scot.
 Jo. Carew.
 Miles Corbet.

Mr. Windham. *Gentlemen of the Jury*, We have done our *Evidence*; and you must know, *Gentlemen*, that the *Principal Point* of the *Indictment* is for *Compassing*, *Imagining*, and *Contriving* the Death of his late Majesty of *Glorious Memory*. There lyes the *Treason*; so says the *Statute* of the 25th *Ed. III.* It hath nothing of *Killing* the King there, but of *Imagining* and *Compassing* the Death of the King. The going about it, that's the *Treason*, as hath been learnedly opened to you; the rest are but *Overt-Acts*: If there be such an *Imagination* or *Compassing* the Death of the King once declared, though no Fruit at all follow, it is *Treason*. Here certainly
 you

you have a very full Evidence given. We shew you a *Consultation*; this is One *Overt-Act* which would do the Work if there were nothing else. I must tell you (and that with Submission to my Lords, the *Justices*) if they had *advised*, and gone no further, that had been Treason in the *Letter* of the Law. They conven'd and met together, and suppose then they had absolved and acquitted him do you think they had absolved themselves from Treason? With Reverence be it spoken, if they had *acquitted* him, they had been Guilty of Treason. *Assuming a Power* to put the King to Death is an *Overt-Act* declaring such an Imagination. You see this Prisoner was no ordinary Actor in it; his Hand is in at all Games. Taking of him, Imprisoning of him, Bringing him to *London*, and Setting Guards on him. You see also his Malice, *let us Blacken him*; for they knew his *Innocency* would shine forth, unless it was *Blackened* by their Imputations. He Sate many Times, as you hear, and *Sentenced him*, and assented to that *Sentence* by standing up, and likewise by concluding the *Catastrophe* of that sad Beginning of Sufferings, his making a Warrant for his *Execution*; and accordingly you know what did follow: I think a clearer *Evidence* of a *Fact* can never be given than is for these Things.

(Here the Spectators *Hummed*.)

Lord Chief Baron. Gentlemen, this *Humming* is not at all becoming the Gravity of this Court. Let there be Free Speaking by the Prisoner and Council. It is more fitting for a Stage-Play than for a Court of Justice.

Mr. Harrison. It is now Time, my Lords, to offer what I have to say. Have these Learned Gentlemen offered what they will say?

Council. We have no more till he hath given us Occasion; not for *Evidence* of the *Fact*.

Mr. Harrison. My Lords, the Matter that hath been offer'd to you, as it was touch'd, was not a Thing done in a Corner. I believe the Sound of it hath been in most Nations. I believe the Hearts of some have felt the Terrors of that Presence of God that was with his Servants in those Days, (however it seemeth good to him to suffer this *Turn* to come on us,) and are Witnesses that the Things were not done in a Corner. I have

desired, as in the Sight of him that searcheth all Hearts, whilst this hath been done, to wait, and receive from him Convictions upon my own Conscience, tho' I have sought it with Tears many a Time, and Prayers over and over, to that God to whom you and all Nations are less than a Drop of Water of the Bucket; and to this Moment I have receiv'd rather Assurance of it, and that the Things that have been done, as astonishing on one Hand, I do believe e'er it be long it will be made known from Heaven, there was more from God than Men are aware of. I do profess that I would not offer of myself the least Injury to the poorest Man or Woman that goes upon the Earth. That I have humbly to offer is this to your Lordships; you know what a Contest hath been in these Nations for many Years. Divers of those that sit upon the *Bench* were formerly as Active——

Court. Pray Mr. Harrison do not thus reflect on the Court. This is not the Business.

Mr. Harrison. I followed not my own Judgment; I did what I did as out of Conscience to the Lord; for when I found those that were as the Apple of mine Eye to turn aside, I did loath them, and suffer'd Imprisonment many Years. Rather than to turn as many did, that did put their Hands to this Plough, I chose rather to be separated from Wife and Family than to have Compliance with them, tho' it was said, *Sit at my Right-hand*, and such kind of Expressions. Thus I have given a little poor Testimony that I have not been doing Things in a Corner, or from myself. May be I might be a little mistaken, but I did it all according to the best of my Understanding, desiring to make the Revealed Will of God in his *Holy Scriptures* as a Guide to me. I humbly conceive that what was done, was done in the Name of the *Parliament* of England, that what was done was done by their Power and Authority; and I do humbly conceive it is my Duty to offer unto you in the Beginning, that this *Court*, or any *Court* below the *High-Court of Parliament*, hath no Jurisdiction of their Actions. Here are many Learned in the Law, and to shorten the Work, I desire I may have the Help of *Council* Learned in the Laws, that may in this Matter give me a little Assistance to offer those Grounds that the Law of the Land doth offer. I say what was done was done

done by the Authority of the *Parliament*, which was then the *Supreme* Authority, and that those that have acted under them are not to be questioned by any Power less than them. And for that I conceive there is much out of the Laws to be shewed to you, and many *Precedents* also in the *Case*. Much is to be offered to you in that ; according to the Laws of the Nations that was a due *Parliament*. Those *Commissions* were issued forth, and what was done was done by their Power ; and whereas it hath been said we did assume and usurp an Authority, -I say this was done rather in the Fear of the Lord.

Court. Away with him. Know where you are, Sir ; you are in the Assembly of *Christians* ; will you make God the Author of your Treasons and Murthers ? Take heed where you are , *Christians* must not hear this ; we will allow you to say for your own *Defence* what you can ; and we have with a great deal of Patience suffer'd you to falley out, wherein you have not gone about so much for Extenuation of your Crimes, as to justifie them, to fall upon others, and to blaspheme God, and commit a New Treason : For your having of *Council*, this is the Reason for allowing of *Council*, when a Man would Plead any Thing, because he would Plead it in *Formality*, *Council* is allowed. But you must first say in what the Matter shall be, and then you shall have the *Court's* Answer.

Lord *Finch*. Tho' my *Lords* here have been pleased to give you a great Latitude, this must not be suffered, that you should run into these damnable Excursions, to make God the Author of this damnable Treason committed.

Mr. *Harrison*. I have Two Things to offer to you, to say for my Defence in Matter of Law. One is, That this that hath been done was done by a *Parliament* of *England*, by the *Commons* of *England* Asssembled in *Parliament* ; and that being so, whatever was done by their Commands or their Authority, is not questionable by your *Lordships*, as being (as I humbly conceive) a Power Inferior to that of an *High-Court* of *Parliament* ; that's One. A Second is this, That what therefore any did in Obedience to that Power and Authority, they are not to be questioned for it, otherwise we are in a most miserable Condition, bound to obey them that are in Authority. and yet to be punished if obeyed. We are not to judge what is Lawful, or
what

what is unlawful. *My Lords*, upon these Two Points I do desire that those that are Learned in the Laws may speak too on my Behalf. It concerns all my Countreymen. There are *Cases* alike to this, you know, in King *Richard the Second's* Time, wherein some Question had been of what had been done by a *Parliament*; and what followed upon it I need not urge in it. I hope it will seem good to you that *Council* may be assigned, for it concerns all my Countreymen.

Council. You are mistaken if you appeal to your Countreymen; they will cry you out, and shame you.

Mr. Harrison. May be so, my Lords, some will, but I am sure others will not.

Mr. Solicitor-Gen. These Two Points, *my Lords*, are but One, and they are a New Treason at the Bar, for which he deserves to die if there were no other *Indictment*. It is the Malice of his Heart to the Dignity and Crown of *England*. I say this is not Matter for which *Council* can be assigned. *Council* cannot put into Form that which is not Matter Pleadable itself. It is so far from being true, that this was the Act of the Supreme *Parliament* of the People of *England*, that there was nothing receiv'd with more Heart-bleeding than this Bloody Business. But that the World may not be abused by the Insinuations of a Man, who acts as if he had a Spirit, and in truth is possess'd, I will say, that the *Lords* and *Commons* are not a *Parliament*; that the *King* and *Lords* cannot do any Thing without the *Commons*; nor the *King* and *Commons* without the *Lords*; nor the *Lords* and *Commons* without the *King*, especially against the *King*. If they do, they must answer it with their Head; for the *King* is not accountable to any Coercive Power. And for the Prisoner to justify his Act, as if it were the Act of the *Commons* of *England*, he is very much to be reproved, Shall he pretend that One House, nay, the Eighth Part of a House, (for so it was,) can condemn a *King*, when both Houses cannot condemn One Man in Spight of the *King*? I desire, *my Lords*, it may pass with a due Reproach, and a Sentence upon it.

Lord Chief Baron. It is true, your Questions are but One Point. You pretend the *Parliament's* Authority, and when you come to speak of it, you say the *Commons* of *England*. They were but One

One *House of Parliament*. The *Parliament*, what is that? It is the *King*, the *Lords*, & the *Commons*. I would fain know of you where ever you read, by the *Light* you say you have in your *Conscience*, that the *Commons* of *England* were a *Parliament* of *England*, that the *Commons* in *Parliament* us'd a *Legislative Power* alone. Do you call that a *Parliament* that sat when the *House* was *Purged*, as they call it, and was so much under the *Awe* of the *Army*, who were then but *Forty*, or *Forty-five* at most? Then you say it was done by *Authority* of them. You must know where there is such an *Authority*, (which indeed is no *Authority*,) he that confirms such an *Authority*, he commits a double *Offence*; therefore consider what your *Plea* is. If your *Plea* were doubtful, we should, and ought, and would, ourselves be of *Counsel* for you. That which you speak concerning *Con- viction of your own Conscience*, remember that it is said in *Scripture*, that they shall think they did *God good Service* when they slay you, as it is in *St. John*. He hath a great deal of *Charity* that thinks that what you did was out of a *Conscientious Principle*; it was against the *Light of Noon-day* and common *Practice*. You make yourself a *Solicitor* in the *Business*. Let us *Blacken him as much as we can*. I have not touched at all upon the *Evidence*, I will not urge it now. I say you justify it upon *Convictions of Conscience*, and pretend it upon *Authority*; a Thing never known or seen under the *Sun*, that the *Commons*, nay, a few *Commons* alone, should take upon them, and call themselves the *Parliament of England*. We have been cheated enough by *Names* and *Words*; there is no *Colour* for what you say. I do think and hope my *Brethren* will speak to this *Case*, that none of us do own that *Convention*, whatsoever it be, to be the *Parliament of England*. There was another *Aggravation*; at this *Time* that this pretended *Authority* usurped that *Power*, the *Lords* were then sitting. You had not taken this usurp'd *Power* to dissolve these *Lords*. No; you did this *Act* in *Despight* of the *Lords*; you had sent up an *Or- dinance* to the *Lords*, and they rejected it, and thereupon these *Members* took it upon themselves: Amongst those there were some *Negatives*, and those *Members* were under the *Awe* and *Power* of your *Forces* at that *Time*. What you plead, the
Court

Court are of Opinion tends to the Subversion of the Laws ; for you to usurp Power over the People without their Consents, to call this the People, we never knew the like before ; but the *Parliament* of *England* was the *King, Lords* and *Commons*. For you to speak of this Power, and justifie this Power, is an Aggravation, adding one Sin and Treason to another. We shall tell you, that neither *both Houses* of *Parliament*, if they had been there, not any *single Person, Community*, not the *People*, either *collectively*, or *representatively*, had any Colour to have any Coercive Power over their King. And this *Plea* which you have spoken of, it ought to be over-ruled, and not to stand good.

Mr. *Annesley*. I do the more willingly speak to this Business, because I was one of those that should have made up that *Parliament* that this Prisoner pretends to. I was one of that *Corrupt Majority* (as they call'd it) that were put out of the *House*. He cannot forget that at that Time there were *Guards* upon both *Houses* of *Parliament* to attend them that were of their own Appointment ; and that those *Guards* were forcibly removed by the Prisoner at the Bar, and his Fellows, and other *Guards* put there, who instead of being a Defence unto them when those *Commons* stood at the Door, were by them threatned. Yet the *Lords* and *Commons* of *England* in *Parliament* Assembled, a full *House* of *Commons*, did resolve, notwithstanding what was aforesaid, that the Treaty in the *Isle of Wight* was a *Ground for Peace*. Afterwards the Major Part of the *House* of *Commons* having resolv'd on this, sent it up to the *Lords* ; that very Day when they were Adjourned there were *Forces* drawn down to the *House* of *Commons* Door, and none suffered to come into the *House* but those that they pleased. All those that had a Mind for Peace, that minded their Duty, and Trust, and Allegiance, to their King, were seiz'd on by this Gentleman and his Fellows. When this was done, what did he and those Fellows do ? They sat and put a Check upon all that should come in. None must come in but those that would renounce their Allegiance and Duty to their King and the People, for whom they served, and then declar'd against that Vote which had been pass'd upon Debate of Twelve or Fourteen Hours, and then to call this an *House* of *Commons*, nay, the

the *Supreme Authority of the Nation*, he knows is against the Laws of the Land. For the *House of Commons* alone cannot so much as give an *Oath*. It hath not Power of *Judicature* of Life and Death: This he knows well to be according to the Laws of *England*. He knows that no Authority less than an *Act of Parliament* can make a Law; and he knows an *Act of Parliament* must be passed by the *King, Lords, and Commons*. I wonder much to hear a Justification in this kind by one that knows the Laws of *England* so well. There will none of the *Court* allow that that was a *Parliament*: The Majority of the *House* did all disavow it. These Things have been already discoursed of; I shall only say, that he knowing the Laws so well, I hope he shall suffer for Transgression thereof.

Mr. *Hollis*. You do very well know that this that you did, this horrid, detestable *Act* which you committed, could never be perfected by you till you had broken the *Parliament*. That *House of Commons*, which you say gave you Authority, you know what yourself made of it when you pulled out the *Speaker*; therefore do not make the *Parliament* to be the Author of your Black Crimes. It was innocent of it. You know yourself what Esteem you had of it, when you broke and tore it in sunder, when you scattered, and made them hide themselves, to preserve them from your Fury and Violence: Do not make the *Parliament* to be the Author of your Crimes. The *Parliament* are the *Three Estates*: It must not be admitted that one *House*, Part of the *Parliament*, should be called the *Supreme Authority*. You know what that *Rump* that you left did, what Laws they made. Did you go home to advise with your Countrey that chose you for that Place? You know that no *Act of Parliament* is binding, but what is Acted by *King, Lords, and Commons*: And now as you would make *God* the Author of your Offence, so likewise you would make the *People* Guilty of your Opinion; but your Plea is over-ruled.

To which the *Court* assented.

Mr. *Harrison*. I was mistaken a little. Whereas it was said the Points were one, I do humbly conceive they were not so. I say what was done, was done in Obedience to the Authority. If it were but an Order of the *House of Commons*, thus under a Force,

Force, yet this Court is not Judge of that Force. I say if it was done by One Estate of Parliament, it is not to be questioned.

Court. It was not done by One Estate, they were but a Part, nay, but an Eighth Part.

Denz. Hollis. It was not an House of Commons; they kept up a Company by the Power of the Sword: Do not abuse the People, in saying it was done by the Supreme Power.

Council. My Lord, if it were an House of Commons, neither House of Commons, nor House of Lords, nor House of Lords and Commons together; no Authority upon Earth can give Authority for murdering the King; this that he alledgeth is Treason; my Lord, this that is said is a clear Evidence of that which is charged; there is only this more in it, he hath done it, and if he were to do it again he would do it.

Lord Chief Baron. It is clear as the Noon-day that this was not the House of Commons. Suppose it had been an House of Commons, and full, and suppose (which far be it from me to suppose) they should have agreed upon such a Murtherous Act; for the House of Commons to do such an Act, it was void in itself; nay, any Authority without the House of Lords and King is void. You plead to the Jurisdiction of the Court whether we should judge it, or no. Yes, I tell you, and proper too: We shall not speak what Power we have; the Judges have Power after Laws are made to go upon the Interpretation of them. We are not to judge of those Things that the Parliament do. But when the Parliament is purged, (as you call it,) for the Commons alone to act, for you to say that this is the Authority of Parliament, it is that whichevery Man will say intrenches highly upon his Liberty and Priviledge: And what you have said to your Justification, what doth it tend to but as much as this, I did it, justify it, and would do it again; which is a New Treason. The greatest Right that ever the House of Commons did claim is but over the Commons. Do they claim a particular Right over the Lords? Nay, over the King? Make it out if you can, but it cannot possibly be made out. What you have said doth aggravate your Crimes: It is such an Approvement of your Treason that all Evidences come short of it: King, Lords, and Commons, is the Ground of the English Law, without that no Act of Parliament binds.

Justice

Justice Mallet. I have been a *Parliament-Man* as long as any Man here present, and I did never know or hear that the *House of Commons* had *Jurisdiction* over any, saving their own *Members*, which is as much as I will say concerning the *Parliament*. I have heard a *Story* of a *Mute*, that was born *Mute*, whose Father was slain by a Stranger, a Man unknown. After Twenty Years, or thereabouts, this *Mute Man* fortun'd to see the Murtherer of his Father, and these were his Words, *Oh! here is he that slew my Father*. Sir, the *King is the Father of the Countrey*, *Pater Patrie*, so saith Sir Edward Coke. He is *Caput Reipublice*, the *Head of the Commonwealth*. Sir, what have you done? Here you have cut off the *Head* of the whole *Common-wealth*, and taken away him that was our *Father*, the Governour of the whole Countrey. This you shall find *Printed and Published* in a Book of the greatest *Lawyer*, Sir Edward Coke. I shall not need, *my Lord*, to say more of this Business. I do hold the Prisoner's *Plea* vain and unreasonable, and to be rejected.

Justice Hide. I shall not trouble you with many Words. I am sorry that any Man should have the Face and Boldness to deliver such Words as you have. You, and all, must know that the *King* is above the *Two Houses*. They must propose their *Laws* to him: The *Laws* are made by him, and not by them; by their Consenting, but they are his *Laws*. That which you speak as to the *Jurisdiction*, you are here *Indicted* for High-Treason, for you to come to talk of *Justification* of this by Pretence of Authority; your *Plea* is naught, illegal, and wicked, and ought not to be allowed. As to having of *Counsel*, the *Court* understand what you are upon; *Counsel* is not to be allowed in that *Case*, and therefore your *Plea* must be over-ruled.

Mr. Justice Twisden. I shall agree with that which many have already said; only this, you have eas'd the *Jury*, you have confessed the *Fact*. I am of the same Opinion, that you can have no *Counsel*, therefore I over-rule your *Plea*, if it had been put in never so good *Form and Manner*.

Earl of Manchester. I beseech you, *my Lords*, let us go some other Way to work —

Sir

Sir William Wild. That which is before us is, whether it be a Matter of *Law* or *Fact* : For the Matter of *Law*, your Lordships have declar'd what it is, his Justification is as high a Treason as the former. For Matter of *Fact*, he hath confess'd it. I beseech you, my Lord, direct the *Jury* for their *Verdict*. This Gentleman hath forgot their Barbarousness ; they would not hear their King.

Court. No *Council* can be allowed to Justifie a Treason ; that this is a Treason, you are *Indicted* by an *Act* of the 25th of *Edw. III.* That which you speak of the *House of Commons*, is but part of the *House of Commons* ; they never did, nor had any Power, to make a *Law* but by *King, Lords, and Commons* ; and therefore your *Plea* is naught, and all the *Court* here is of the same Opinion ; if they were not they would say so ; therefore what you have said is over-rul'd by the *Court*. Have you any Thing else to offer ?

Mr. Harrison. *Notwithstanding the Judgment of so many Learned ones, that the Kings of England are no Ways accountable to the Parliament, the Lords and Commons in the Beginning of this War having declared the Kings beginning War upon them ; the God of Gods* —

Court. Do you render yourself so desperate that you care not what Language you let fall ? It must not be suffered.

Mr. Harrison. *I would not willingly speak to offend any Man ; but I know God is no Respector of Persons. His setting up his Standard against the People* —

Court. Truly, Mr. Harrison, this must not be suffered : This doth not at all belong to you.

Mr. Harrison. *Under Favour this doth belong to me. I would have abhorr'd to have brought him to Account, had not the Blood of Englishmen, that had been shed* —

Council. Methinks he should be sent to *Bedlam* till he comes to the *Gallows* to render an *Account* of this. This must not be suffered. It is in a Manner a *New Impeachment* of this King, to justifie their Treasons against his late Majesty.

Mr. Solicitor-General. My Lords, I pray that the *Jury* may go together upon the *Evidence*.

Sir Edw. Turner. My Lords, this Man hath the *Plague* all over him; it is Pity any should stand near him, for he will infect them. Let us say to him as they used to write over an House infected, *The Lord have Mercy upon him*, and so let the *Officer* take him away.

Lord Chief Baron. Mr. *Harrison*, we are ready to hear you again; but to hear such Stuff, it cannot be suffered. You have spoken that which is as high a Degree of Blasphemy, next to that against God, as I have heard. You have made very ill use of these Favours that have been allowed you to speak; your own Conscience cannot but tell you the Contradiction of your Actions against this that you have heard as the Opinion of the *Court*. To extenuate your Crimes you may go on, but you must not go as before.

Mr. Harrison. *I must not speak so as to be pleasing to Men; but if I must not have Liberty as an Englishman —*

Court. Pray do not reflect thus; you have had Liberty, and more than any Prisoner in your Condition can expect; and I wish you had made a good use of it. Keep to the Business, say what you will.

Mr. Harrison. My Lords, thus; There was a Discourse by one of the Witnesses that I was at the Committee preparing the Charge, and that I should say, Let us Blacken him. The Thing is utterly untrue; I abhorred the doing of any Thing touching the Blackening of the King. There was a little Discourse between the King and myself. The King had told me that he had heard that I should come privately to the Isle of Wight to offer some Injury to him; but I told him I abhorred the Thoughts of it. And whereas it is said that my Carriage was hard to him when I brought him to London, it was not I that brought him to London, I was commanded by the General to fetch him from Hurst Castle. I do not remember any hard Carriage towards him.

Court. Mr. *Harrison*, You have said that you deny that of Blackening, which the Witness hath Sworn; and somewhat else touching the King in his Way to London, that the Witness hath Sworn to also. The *Fury* must consider of it, both of their Oaths and your Contradictions. If you have nothing more

to say, which tends to your Justification. We must direct the *Fury*. The end of your Speech is nothing but to infect the People.

Mr. Harrison. *You are uncharitable in that.*

Justice Foster. *My Lords,* This ought not to come from the Bar to the Bench; if you *salley out* thus about your Conscience; if your Conscience should be a darkened Conscience. that must not be the Rule of other Mens Actions. What you speak of that Nature is nothing to the Business. If you have any thing to say, by Way of Excuse for yourself for Matter of *Faſt*, you may speak: But if you will go on as before, it must not be suffered.

Mr. Harrison, *The Things that have been done, have been done upon the Stage, in the Sight of the Sun——*

Court. All this is a Continuance of the Justification and Confession of the *Faſt*. We need no other *Evidence*.

Council. He hath confessed his *Faſt*, *my Lords*. The Matter itself is Treason upon Treason; therefore we pray Direction to the *Fury*.

Lord Chief Baron. *Mr. Harrison,* I must give Direction to the *Fury* if you will not go further touching the *Faſt*.

Mr. Harrison. *My Lords,* I say what I did was by the Supreme Authority. I have said it before, and appeal to your own Consciences, that this Court cannot call me to Question.

Lord Chief Baron. *Mr. Harrison,* you have appealed to our Consciences. We shall do that, which, by the Blessing of God, shall be just; for which we shall answer before the Tribunal of God. Pray take heed of an *Obdurate*, *Hard Heart*, and a *Seared Conscience*.

Mr. Harrison. *My Lords,* I have been kept six Months a Close Prisoner, and could not prepare myself for this Trial by Council. I have got here some AEs of Parliament of that House of Commons, which your Lordships will not own; and the Proceedings of that House, whose Authority I did own.

Lord Chief Baron. This you have said already. If you shew never so many of that Nature they will not help you: You have heard the Opinion of the Court touching that Authority. They all unanimously concur in it.

Gentlemen

Gentlemen of the Jury, You see that this *Prisoner* at the *Bar* is Indicted for *Compassing*, *Imagining*, and *Contriving* the Death of our late Sovereign Lord, King *Charles* the First, of Blessed Memory. In this *Indictment* there are several Things given but as Evidences of it; they are but the *Overt-Acts* of it. The one is, first, that they did meet and consult together about the putting the King to Death; and that alone, if nothing else had been proved in the *Case*, was enough for you to find the *Indictment*; for the *Imagination* alone is Treason by the Law. But because the *Compassing* and *Imagining* the Death of the King is secret in the Heart, and no Man knows it but God Almighty, I say, That the *Imagination* is Treason; yet it is not such as the Law can lay hold of, unless it appears by some *Overt-Act*. Then the first *Overt-Act* is their *Meeting*, *Consulting*, and *Proposing* to put the King to Death. The second is more open; namely, their *Sitting* together, and *Assuming an Authority* to put the King to Death. The Third is *Sentencing* the King. And I must tell you that any one of these Acts prove the *Indictment*. If you find him guilty but of any one of them, either *Consulting*, *Proposing*, *Sitting*, or *Sentencing*, (though there is full Proof for all,) yet notwithstanding you ought to find the *Indictment*. You have heard what the *Witnesses* have said, and the *Prisoner's* own Confession. *Witnesses* have sworn their sitting together; and that he was one: One swears he sate *Four* times, another *Twice*; some *several Times*. There are several *Witnesses* for this, as *Mr. Master*son, *Mr. Clark*, *Mr. Kirk*, and *Mr. Nutley*. And then you have another Thing too, which truly the *Prisoner* did not speak of. *Witness* was given against him, that he was the Person that Conducted the King; this was before that, which he would have to be done by a *Legislative Power*, and that is another *Overt-Act*. If a Man will go about to *Imprison* the King, the Law knows what is the sad Effect of such *Imprisonment*. That hath often been adjudged to be an Evidence of *Imagining* and *Compassing* the Death of the King. That Man, the *Prisoner* at the *Bar*, it hath been proved to you did *Imprison* the King; and it appears by his own Hand to the *Warrant* for summoning of that Traiterous Assembly, *The High-Court of Justice*, as they called it. And also it appears by his Hand to the *Warrant* for

Execution, that *Bloody Warrant*. He hath been so far from denying, that he hath justified these Actions. The *Evidence* is so clear and pregnant as nothing more. I think you need not go out.

The Jury went together at the Bar, and presently unanimously agreed on their Verdict, whereupon they were demanded by the Clerk.

Clerk. Are you agreed upon your *Verdict*?

Jury. Yes.

Clerk. Who shall say for you?

Jury. Our Foreman. (Which was Sir Thomas Allen.)

Clerk. Thomas Harrison, Hold up thy Hand. Gentlemen of the *Jury*, look upon the Prisoner. How say ye? Is he Guilty of the Treason whereof he stands Indicted, and hath been Arraigned? Or Not Guilty?

Fore-man. Guilty.

Then the Keeper was charged to look to the Prisoner.

Clerk. What Goods and Chattels had he at the Time of Committing this Treason, or at any Time since?

Fore-man. None to our Knowledge.

Which Verdict being repeated to the Jury by Mr. Clerk of the Crown, the Jury owned it unanimously.

Mr. Solicitor-Gen. My Lords, upon this *Verdict* that hath been given against the Prisoner at the Bar I humbly move that we may have Judgment given.

Your Sessions will be long, and your Work will be great; his Demeanour hath been such that he doth not deserve a Reprieve for so many Days that you are like to spend in this Session.

Court. Mr. Harrison, they desire Judgment upon the *Verdict*. What do you say for yourself why Judgment should not pass against you?

Clerk. Thomas Harrison, hold up thy Hand. What hast thou to say for thyself why Judgment should not pass against thee, to Die according to Law?

Mr. Harrison. I have nothing further to say, because the Court have not seen meet to hear what was in my Heart to speak, I submit to it.

The Crier made Proclamation for Silence whilst Judgment was in giving.

Lord Chief Baron. You that are the Prisoner at the Bar, you are to pass the Sentence of Death, which Sentence is this. The Judgment of this Court is, and the Court doth award; That you be led back to the Place from whence you came, and from thence to be drawn upon an Hurdle to the Place of Execution, and there you shall be hanged by the Neck, and being alive shall be cut down, and your Privy Members to be cut off, your Entrails to be taken out of your Body, and (you living) the same to be burnt before your Eyes, and your Head to be cut off, your Body to be divided into Four Quarters, and Head and Quarters to be disposed of at the Pleasure of the King's Majesty; and the Lord have Mercy upon your Soul.

And then Proclamation was made for Adjournment of the Court to this Place till Seven of the Clock to Morrow Morning; and all Fury-men and Witnesses were Commanded to be at the said Place and Time upon Forfeiture of an Hundred Pounds apiece.

October 12. 1660.

The Proclamation for Silence.

The Jury called.

Prisoners brought to the Bar, viz.

John Jones, Adrian Scroop, Thomas Scot, Gregory Clement, John Carew.

Crier. Sir Thomas Allen.

Clerk. Sir Tho. Allen, lay your Hand on the Book, look upon the Prisoner at the Bar.

Scroop. I challenge him, my Lord.

L. C. Bar. That you may not mistake, if you challenge in this Manner, and do not join in your Challenges, we must try you severally one after another; I must tell you the Course of the Law, if one challenge one, and another challenge another, we must severe, and go to Trial one by one. Call the next.

Cl. Sir Henry Wroth.

Scroop. I challenge him.

L. C. Bar. Then we must go on severally, set all aside but Mr. Scroope; Mr. Scroope, you may challenge particularly whom you will till you come to 35, if you go beyond that Number you will lose the Benefit of the Law.

Scr. I desire, my Lord that whosoever was challenged Yesterday may not be called again.

Court. No, that cannot be, that is nothing to you. The Court thereupon proceeded, and called——

Challenged, John Lisle, Nic. Raynton, Thomas Wynter, Thomas Frankelyn, Randal Nichol, Jo. Kirke, Ambrose Scudamore, George Tirrey, who were all challenged.

Jury, Thomas Willet. Hen. Marsh, Charles Pittied, Chr. Abdy, Rich. Cheny, Tho. Bid. Jo. Smith, Richard Abel, Ralph Halsal, Jo. Gallyard, Tho. Swallow, Sam. Starnel, were admitted and sworn on the Jury.

Cl. Crier, make Proclamation. If any Man can inform my Lords the King's Justices, the King's Serjeant, or the King's Attorney, before this Inquest be taken between our Sovereign Lord

Lord the King, and the Prisoner at the Bar. let them come forth and they shall be heard, for now the Prisoner stands at the Bar upon his Delivery, and all others bound by Recognizance to give Evidence against the Prisoner at the Bar, let them come forth and give their Evidence, or else they shall forfeit their Recognizance.

Cl. Adrian Scroop, Hold up thy Hand ; you Gentlemen that are sworn, look upon the Prisoner, and hearken to his Charge ; you shall understand, &c. upon this Indictment he hath pleaded Not Guilty.

Mr. Sol. May it please your Lordships, and you Gentlemen of the Jury, this Prisoner at the Bar stands indicted for Compassing and Imagining the Death of the late King of Blessed Memory. The Indictment sets out, that to that End and Purpose the Prisoner at the Bar did, with others, assemble and sit together at *Westminster-Hall*, consulting upon him, and usurped an Authority to proceed against the Life of our said late Sovereign, and in Pursuance of that our late Sovereign was brought to his Death. These Things are alledged in the Indictment as several *Overt-Acts*, to shew the Treason of his Heart, which was the Compassing and Imagining the Death of the King ; Compassing and Imagining are the Words of the Statute, the rest of the Indictment is but as so many *Overt-acts*, Evidences and Manifestations of that corrupt and wicked Heart of his, by which he first thought such a Thought against his Sovereign. The Manner of our Evidence shall be this: Before they could come to accomplish this damnable Design, it was necessary to meet in a Traiterous Assembly, which they called the *High-Court of Justice*, that under the Pageantry and Mockery of that, they might pretend to Murder him by a Sentence ; and before that Assembly could come to sit, there was a Precept set forth very formally to summon them to sit. This Prisoner at the Bar is one of those Persons, who under his Hand and Seal did summon that Court to sit upon the Life of our late Sovereign. When the Court, in Obedience to that Summons (as they called it) did meet, they sate several times, and he among them ; they did proceed with a wonderful Impudence (as they had begun) to pronounce Sentence of Death upon our late Sovereign ; my Lords, this Prisoner at the

Bar was amongst them, and was at that Court, and gave the Sentence. When they had done, that they might compleat their Villany, they made a Bloody Warrant for Severing the Head of his late Majesty from his Body, and the Hand of the Prisoner is to that Warrant also; and this is the Scope of our Indictment.

Scro. My Lords, may I have Liberty to speak?

Court. If you do confess that which is opened in Evidence against you, we shall not need to examine any Witnesses.

Scr. Examine what you think fit, if I understand that worthy Gentleman that spake last, he said that my Hand was to the Warrant for Execution; my Lord, if I can see my Hand I can tell, and I will not deny my Hand.

Court. Shew it him: Which was done accordingly.

Scr. My Lords, I will not deny but that it is my Hand, but it is not my Seal.

Council. Crier, call Mr. *Masterfon*, Mr. *Kirke*, Mr. *Clark*, Mr. *Carr*, who were all Sworn.

Mr. *Masterfon*, pray tell my Lords and the Jury whether you did see the Prisoner at the Bar in that which they called the *High-Court of Justice*, sitting as a Judge upon the late King.

Mr. *Maft.* My Lords, and Gentlemen of the Jury, I saw upon the 22d or 23d of *Jan.* in the Year 1648, the Prisoner at the Bar sitting upon the Bench as one of the Judges in that which they called the *High-Court of Justice*, the King standing a Prisoner at the Bar; I say either the 22d or 23d. But I say particularly upon the 27th of *Jan.* 1648, in which the Sentence was passed upon the late King, I saw the Prisoner at the Bar sitting upon the Bench, in that which they called the *High-Court of Justice*.

Coun. How did he demean himself when the Sentence was read?

Mr. *Ma.* When the Sentence was read it was by the President (as he was called) of that Court, said to be the Sentence and Judgment of the whole Court, upon which the Prisoner at the Bar rose up, as to my Apprehension, testifying his Assent. All their Assents were taken so, and no otherwise, to us that were as Spectators.

Scr.

Scr. I beseech your Lordships that I may speak without Offence, and answer to this.

Court. Mr. *Scroop*, you may please to have Paper, and Pens, and Ink, to take Notes, or to ask any Questions.

Scr. My Lords, give me Leave to ask him this Question; Whereabouts did he see me sit in the Court?

Court. Mr. *Ma.* you hear the Question, pray answer to it.

Ma. My Lords, I cannot particularly say where he sat, but I saw him in the Court, and to the best of my Remembrance it was on the Second Seat on the Left-hand of *Bradshaw*.

Scr. I would not give Offence to the Court in any Kind; I am now pleading for my Life, I desire to take a little Liberty to ask this Gentleman if ever he and I were in Company together, that he knows me so well.

M. For my Part I do not remember I saw his Face before the sitting of that Court: If this Gentleman ask me if I were ever in his Company, I know not how I may construe the Word Company; but I am sure I never eat nor drank with him; I have seen him very many Times at Committees, more than Twenty Times since that Business.

Mr. *Clark* called.

Coun. Mr. *Clark*, you have heard the Question, did you ever see the Prisoner at the Bar in that which they called the High-Court of Justice?

Mr. *Clark.* I do remember in the Year 1648 I saw the Prisoner sitting in that which they call the High-Court of Justice upon the Trial of the King.

Scr. My Lords, you may desist in examining Witnesses touching my Sitting.

Court. Do you acknowledge you did sit in that which they called the High-Court of Justice.

Scr. Yes, I see it proved, and I see a Gentleman here in my Eyes that I know very well, I will not deny it.

Court. Did you sit upon the Sentence Day, that is the Evidence, which was the 27th of *January*? You are not bound to answer me, but if you will not we must prove it. Do you confess that?

Scr. I do not confess that I stood up as assenting to the Sentence.

Mr. *Clark* called.

Coun.

Coun. Mr. Clark, what say you to that?

Clark. I did not take particular Notice of him that Day, that he stood up; but the Whole Court stood up to my Apprehension, but I took Notice that he was there then present.

Coun. Mr. Clark, do you remember that you saw any of them sit?

Cl. I did not take Notice of any that sat then, but all stood up to my Thoughts. *Mr. Carr* called.

Coun. Mr. Carr, tell my Lords and the Jury whether you did see the Prisoner at the Bar sitting in that which they called the High-Court of Justice.

Carr. My Lords and Gentlemen of the Jury, the 22d, 23d, and 27th, of Jan. 1648, I was present when the Names of that they called the High-Court of Justice were called, and amongst others that were Judges of that Court, as was Printed in a Paper which I then had in my Hand, I found the Name of Mr. A. Scroop; who I saw did there sit and appear.

Mr. Carr looked in that Paper when he gave this Evidence.

Scroop I hope you will not take any Evidence from a Printed List.

Council. The Manner of his Evidence is, he saith this, That he had this Printed Paper in his Hand when the Names of that Court were called, and marking the Persons in that Paper who were present, and that you were One of them who did appear.

Scr. My Lord, I shall not dispute in Regard of my Want of Skill in the Law the Lawfulness of bringing in any Paper in Evidence into the Court, I shall not dispute against your Lordships; but by your Favour I do suppose there is no Witness ought to use any Paper, or look upon any Paper when he gives Evidence, but I shall submit it to your Lordships.

Mr. Solicit. Ask him the Question without his Paper, but yet nothing is more usual than for a Witness to make Use of a Paper to help his Memory.

Scroop. The Gentleman that spake last I cannot hear him.

Mr.

Mr. Sol. We do not need his Paper in this Case, he will tell it without a Paper. Mr. Carr. speak without a Paper.

Carr. My Lords, upon the calling of those that were Judges in that Court which they called the *High-Court of Justice* then sitting, this Gentleman the Prisoner at the Bar did answer to his Names then called.

Scr. Did you see me?

Carr. I heard you answer, and saw you.

Scroop. I pray he may be asked whereabouts I sat in that Court.

Council. Mr. Carr, you hear the Question, answer to it.

Carr. I am not able particularly to tell now, it being many Years since.

Scroop. My Lord, observe of what Value this Evidence is; I am sure I never was in his Company, I do not know that ever he saw me in his Life: I beseech you give me Leave to plead for myself in all Humbleness and Modesty, my Lord.

L. C. Bar. Notice is taken of it Mr. Scroop, God forbid you should be debarr'd of it.

Scr. I say he comes with Evidence of a Paper, he heard my Name call'd, and marked it: It is strange that a Gentleman whom I never saw, I know not his Name, nor I do not think he knew my Name if he had met me.

L. C. Bar. I told you that was laid aside, and you heard him speak *Viva voce* without a Paper.

Coun. Mr. Kirk, did you see the Prisoner at the Bar in that Court which they called the *High-Court of Justice* for Trial of the late King.

Kirk. My Lords and Gentlemen of the Jury, I did see the Prisoner there, and did I wonder to see him there, which was the Reason I took the more special Notice of his being there.

Scr. Pray, my Lord, let me intreat One Thing before he speaks, That your Lordships will be pleas'd to speak to him to give in his Evidence without any Speech.

Coun. How can that be? Can he give Evidence without speaking?

Scr. I beseech you, my Lords, give me Leave to say this, Let him give in his Evidence in plain Words without any Speech.

L. C. Bar.

L. C. Bar. Mr. *Scroop*, he must be excused, there are Circumstances inducing which are as much as the Principal; this that he hath said is very material; saith he, *I did see the Prisoner at the Bar there; I did not expect it, and wondered at it, and therefore took the more Notice* — Let him go on, ask him what Question you will.

Scroop. My Lord, I submit.

L. C. Bar. Mr. *Kirk*, you must speak the Truth, and the whole Truth; go on.

Kirk. I say as I said before, I saw this Gentleman sitting in that which they called the *High-Court of Justice*, and I did therefore wonder at it, because I did not expect him there: I came to know him formerly as he was called Captain *Scroop*.

Coun. Go on.

K. And as I said before, I saw this Person, this Prisoner at the Bar, sit amongst the rest of those Persons, Judges, as they called themselves, of the *High-Court of Justice for the Trial of the King*; I did more particularly take Notice of this Person, because I did not expect him there: I knew him formerly upon this Report, being an Eminent Man, by the Name of Captain *Scroop*, and at that Time was an Associate of one Captain *Vivers*, and Captain *Wingham*; I had not seen him some Years before this Business, and seeing of him there, I did the more particularly take Notice of him.

Scr. Have you done, Sir? I beseech your Lordship ask him what Employment he had there himself when he saw me there.

K. My Lord, I was there to hear the Trial.

Lord Chief Baron. Mr. *Scroop*, I am not willing you should have any Thing of Interruption, unless you reflect upon any Person that concerns not you, Mr *Scroop*, do not think it will be for your Advantage, nor is it proper for you to ask.

Scroop. In all Humbleness I do speak it to your Lordships, that your Lordship will please to consider, that if he had any Employment in that Business himself how unfit a Witness he is against me.

Court. Much fitter.

Scr. If it be so I have done.

Kirk. My Lord, I was there only as a Spectator ; I went only there to see and hear what was there to be seen and heard ; I stood there and took Notes in Characters of the Proceedings, and several others with myself did the like, and we compared them together ; that was all my Business at that Time, and I saw him sit there the 27th Day of Jan. 1648, which was the Day of Sentence against the King.

Scroop. Whereabouts did you see me sit there ?

Kirk. It is not, I think, imaginable that any Person should be able after so many Years possibly to say where any Person sat ; but to the best of my Remembrance you sat upon the Second Bench next the President. But I dare not be positive in that, I dare not justify it upon my Oath, it is but my Remembrance.

Here Mr. Scroop talked to one that stood near him.

L. Chief Baron. We must desire that of you, Mr. Scroop, that you will not speak to any here but what the Court may hear.

Scr. I shall observe your Commands.

Mr. Coymore Sworn.

Council. Did you see the Prisoner at the Bar sitting in that which they called the High-Court of Justice as a Judge upon the King ?

Coyt. I did see him.

Council. When ? What Day ?

Coyt. I cannot name the Day ; I was there Three Days of their Sitting, there I saw him once or twice ; once I am sure.

Scr. What Day ?

Coyt. I cannot remember.

Council. Did he sit there as a Judge upon the King ?

Coyt. He sat among the rest as a Judge.

Scr. Give me Leave to ask him whereabouts he saw me sit ?

Council. Where did you see him sit ?

Coyt. I cannot remember the Place, he was among them ; I saw him either One or Two Days ; there was a great Company of them together.

Council.

Council. Mr. Nutley, did you see the Prisoner at the Bar sitting in that which they called the High Court of Justice?

Nut. If it please your Lordships, I was there in the Court those Four several Days that they sat in Judgment, I heard the Prisoner at the Bar called by his Name, I did take Notice he was there, truly I think he was there twice or thrice to my Remembrance.

Council. Can you tell what Day, whether the 27th of Jan. 1648.

Nut. I cannot say positively, but to the best of my Remembrance he was there, that was the last Day when Judgment was given.

Mr. Baker Sworn.

Council. Mr. Baker, what say you? Did you see the Prisoner at the Bar sitting in that which they called the High Court of Justice?

Baker. Yes I did see Col. Scroop on Tuesday the 23d of Jan. 1648 very particularly stand up and answer to his Name.

Council. Mr. Coytmore, are you acquainted with Col. Scroop's Hand.

Coyt. I have had several Letters from him.

Council. Mr. Scroop, have you a Mind to see the Warrant for summoning the Court?

Scr. I desire to see it; I do not remember I set my Hand to it.

Court. Shew it him. It being shewed him,

Scr. I cannot say it is my Hand.

Council. It is too true, we shall prove it to you.

Court. Shew it to Mr. Coytmore.

Scr. Be pleas'd to let me see it once more: which was again shewed him: Truly, my Lord, I will save him the Labour.

Council. You do acknowledge it was your Hand.

Scr. I'll save him the Labour; for I confess I do not love Men should be put to their Oaths more than needs.

Here likewise the Warrant for Execution was read.

Council. My Lords, we shall conclude our Evidence with Major-General Brown, the Lord Mayor Elect.

The

The Lord Eleſt Sworn.

Coun. My Lord, be pleaſed to tell my Lords what Diſcourſe hath lately paſſed between the Priſoner at the Bar and you concerning the Death of the King.

Lord Eleſt. My Lords, upon ſome Occaſion I was accidentally at the Chamber of the Speaker, there I met this Gentleman whom indeed I knew not; he told me who he was; and when I underſtood who he was I ſaid to him (or Words to this Purpoſe, I cannot tell the Words) becauſe I would not diſtate him, and ſay you have done this, therefore I put it thus, *We* have done this, What a ſad Caſe have *we*, ſaid I, brought this Kingdom unto? Why, ſaith he? You ſee, ſaid I, how it is ruined now the King is murder- ed, &c. Saith he, *ſome are of one Opinion, and ſome of another.* Sir, ſaid I, do you think it was well done to murder the King? Saith he, *I will not make you my Confeſſor, Sir; it was much to this Purpoſe.*

Coun. When was this ſpoken?

Lord Eleſt. Truly I do not know the Day, but it was that Day that Sir *H. M.* rendered himſelf to the Speaker, it was ſince the Coming in of the King.

M. Sol. Neither Time nor the Hand of God appearing in this Buſineſs, nor the Condition he was in, was ever able to bring this Gentleman to be ſorry for his Offence; but we do not give it as any Evidence of his Crimes: You have heard the Priſoner confeſs the Two Warrants: You have heard by ſeveral Witneſſes produced that he did ſit in that which they called the High Court of Juſtice, by Three that he ſat particularly on that Day they called the Day of their Judgment; you have heard how little Penitence he hath had by his Declaration to the Lord Mayor Eleſt.

Scr. *I hope now that you have heard the Evidence againſt me that you will give me Leave to make ſome Defence for myſelf.*

L. C. Bar God forbid otherwiſe but that you ſhould have free Liberty.

Scr. Truly my Lords, though my Breeding hath not been in the Way of the Laws. and therefore I have a great Diſadvantage when there be ſuch Learned Gentlemen as theſe are to plead againſt me. I muſt confeſs to you I have ſomething for Matter
of

of Law to plead for the Justification of the Fact, tho' I would not undertake to justify the Person, this I humbly intreat, if it may be granted, that I may have some Time given me, and some Council, that I may answer Matter of Law.

L. C. Bar. Mr. Scroop, if you have any Thing of Matter of Law for which you would have Council, you must alledge that Matter first; the Use of Council is only to put in Certainty what you have of Matter of Law, and then the Court and Judges must judge of it. If you have Matter of Law, you must tell what it is; if it be Matter that there is Cause to over-rule it, there is no Cause of making further Use of Council. If One be Indicted for Murther, when he comes to Trial he will say, I have Matter of Law to plead; What is that? That Murther is no Felony: Do you think Council will be admitted in this? If you do alledge what this Matter is wherein you desire Council, you shall have your Answer.

Scr. My Lords, as well as I am able to do it I shall do it; my Lord, I was not in the Parliament; take Notice of that; and that which was done in the High Court of Justice, it was done by a Commission from the Parliament. My Lord, it was that Authority which was then, I will not say it was so, because I would not give Offence; it was that Authority then which was accounted the Supreme Authority of the Nation; and that Authority, my Lord, that a great many of the Generality of the Nation submitted to. My Lord, I having received a Command from that Authority, what I did was in Obedience to that Authority: My Lord, I have not had Time to consider of these Things, because I have been for these Six Weeks Time shut up a close Prisoner, and that I could neither come at Council nor any Thing else, nor to get any Thing to prepare for it; therefore I desire your Lordships to do me the Favour, if you see any Weight in it, to let me have Time and Council assigned me.

L. C. Bar. Have you done, Sir?

Scr. Ter.

L. C. Bar.

L. C. Bar. Then I take it this is the Effect of what you have said; if I have not taken it aright tell me so: You say you justify the Fact, though not your Person; that you were not of the Parliament; that what was done was by Commission from the Parliament: Be pleased not to mistake me, for I say you said this: That that which I have to plead in Justification of it, I do not say that I justify myself, but that which I have to say is for Justification of the Fact: I was first no Contriver of the Business; and then, secondly, I did it by Virtue of the Command, and in Obedience to the Authority, of the Parliament: That that Authority was then accounted the Supream Authority of the Nations, and that the Generality of the Nations did submit to their Authority; I think I have repeated all you have said. Then, *Mr. Scroop*, you must know this, that there is no Cause at all why Council should be given for what you speak; I profess it rather tends to the Aggravation than Extenuation of what you did. First, you say you did it by Authority of Parliament, I am afraid you have been mistaken as well as others; by the Word Parliament, what doth that mean? I am sure you, and every one, knows, that there was not one President ever heard of till this, that the House of Commons should take upon them the Legislative Power, and make such an Act as this was; there was no Colour for it. Then for Men upon their own Heads, never heard of before, and against the Liberty and Freedom of the People, that they should call it the Parliament when there was but 46 sate, whereas there was above 240 excluded; and how you can call this a House of Commons is a great wonder to me; but I tell you this, take it for granted, that if they were the most perfect House of Commons that could be, did ever the House of Commons, before this single Act, take upon them the Legislative Powers without the Lords? The Acts are begun in the Commons House; when you have done, if the Lords not pass it, it is Abortive; if it be done by both Houses there ought to be a Royal Assent: But the Lords had rejected this Act; then they must take upon them these 46 Men, whereof I do believe there was not above

25 or 26 Men that did vote this, and this must be called the Parliament, the Commons of *England*. I would fain know whether any Man hath heard that the House of Commons took upon them the Legislative Power before this Act; but this hath been over-ruled in the like Case, and I shall say no more to it. What is the Oath of Allegiance? Is it not that you would defend the King, his Crown, Rights, and Liberties, against all Persons whatsoever? It was not only against the Pope (as some would have it) but the Word is, *or otherwise*: They broke the Oath of Supremacy, which was, *That the King was Supreme Governour of these Nations*. They swore that they would maintain and keep all Privileges, Immunities, Preheminences, annexed to the Imperial Crown of this Realm; there is Difference between some Crowns and Imperial Crowns: An Imperial Crown, it was that which was not to be touched in the Person: We do not speak any Thing of the Absolute Power of the King, for you see he cannot judge concerning the Death of his Father, but by *Laws*. When you swore this Allegiance, all those Members to break all this at once, this would be so far from having any Colour of Authority, that he that justifies it, justifies it against the Light of Conscience and Laws. You say you did it by Commandment from them; he that doth a Command by such an Authority, it is his Guilt: Our *Law-Book* say, That if a Court at Common-Law exceed their Jurisdiction, in that Case he that obeys that Command is punishable. In the Court of Common-Pleas, if there be an Appeal there for Murther, it is only proper to the Upper Bench; and therefore if the Party be condemned, sentenced, and executed, thereupon, the Executioner in that Case is Guilty of Murther, for obeying that Authority, which was indeed no Authority: And therefore whereas you would go about to justify the Fact, because you did it by Command of that Authority, that is an Aggravation: That when Men shall assume an Authority which is a Devil at the Noon-day, appearing without Vizors; I say shall assume an Authority never heard of before; if Men will countenance their Acts by obeying of them, it is an Aggravation: We have already declared this in the Case of the Prisoner Yesterday;

day; we are all satisfied in the Law in that Case: It is so clear a Point in Law, that my Brethren here and we did over-rule it Yesterday in the like Case, and so we must now; and I hope that all do concur in this Opinion that hath been delivered.

Lord Finch. I hope all do concur in this Opinion delivered by my Lord Chief Baron: You shelter yourself under a Command of the House of Commons; but let me tell you, and all the World, That if the House of Commons (let it have been never so compleat) had given a Command, it had been a Thing no Ways justifiable; the Justification is an Aggravation.

Scr. *My Lord, I do see that every Thing I speak, though it be for clearing of myself from your Ill Opinion, I see it is taken in an Ill Sence (I humbly beseech Pardon for the Expression) if I err I will crave your Lordship's Pardon; but, my Lord, I say this, If I have been misled, I am not a single Person that have been misled. My Lord, I could say, (but I think it doth not become me to say so,) That I see a great many Faces at this Time that were misled as well as myself; but that I will not insist upon: I say this, That I hope an Error in Judgment shall not be accounted Malice or an Error of the Will: Truly (my Lord) I never went to the Work with a Malicious Heart; I humbly desire your Lordships to take Notice of it, That I never bore any Malice at all against his late Majesty.*

L. C. Bar. Mr. Scroop, have you done?

Scr. *My Lord, I do beseech your Lordships to take Notice, That an Error in Judgment is not an Error in the Will.*

L. C. Bar. Mr. Scroop, I am very glad to hear you say so; but let me tell you what the Law saith; the Law in this Case creates the Malice. If a Man do an Act of this Nature, that may be some Kind of Excuse to God, but towards Man you are to look to the Fact, the Law implies the Malice. If there be any Thing you will say in the Extenuation of your Offence, we will be very glad to hear that may tend to your Help.

Scr. *My Lord, there is one Evidence comes in against me that I must confess I am very sorry to see; and, my Lord, there was a saying, and it is by my Lord Mayor Elect: Truly he is a*

thy Gentleman, but I desire the Lord may forgive that which he hath spoken: Truly, my Lord, I did never intend any Thing in this, neither can I directly remember that I spake those Words directly, as my Lord Mayor Eleſt doth ſpeak: I do believe my Lord Mayor cannot very well remember them himſelf; for he ſaith ſo far as he can remember; I muſt confeſs that when I was there, and had appeared according to the Proclamation, that ſuch Diſcourſe ſomewhat like it was raiſed, not of my procuring; I did not procure the Diſcourſe; I never intended the Juſtification of the Faſt; but it was my ill Succeſs that I ſhould meet with that worthy Gentleman to have ſo much Diſcourſe with him.

L. C. Bar. Mr. Scroop, my Lord Mayor Eleſt ſaith no further than this, ſo far as he remembers, and the Words that you ſhould ſay were theſe, That ſome are of one Opinion, and ſome are of another.

Scr. Upon the Death of the King, (my Lord,) I muſt confeſs to you, that ſomewhat I ſaid to him, but I cannot own that I ſaid thoſe Words. My Lords, He is a worthy Perſon, I do not deſire to ſpeak any Thing to degenerate in the leaſt kind from him; it is but his yea, and my no; there was no Body there.

L. C. Bar. Have you any Thing more to ſay for yourſelf?

Scr. My Lord, if your Lordſhip do over rule it ſo that I may not have Council, I have little more to ſay.

L. C. Bar. You have heard the Senſe of the Court in that particular, you cannot have Council allowed you as to the Matter you have pleaded.

Scr. I have done, but only this, my Lords, I know not whether it be reaſonable to mention it; I came in upon the Proclamation; and, my Lords, by Means of theſe unhappy Words that have been reported of me in the Houſe of Commons, whereas before I was no excepted Perſon, I came to be excepted, and upon the very laſt Day of paſſing that Act, never was excepted before the very laſt Day: I beſeech you take Notice of this.

L. C. Bar. Mr. Scroop, That is a Thing that is not before us, but there will be a proper Time to conſider of it in another Place; that is nothing to the Trial; have you any more to ſay, Sir?

Scr. No,

Ser. No, my Lord; Will your Lordship please to let me speak a Word to the Jury.

• *L. Ch. Baron.* If you speak to the Court the Jury will hear it.

Ser. Truly, my Lord, this I do perceive, that I am under a very great Prejudice as to this Fact. It hath been the Case of many Gentlemen besides myself; I desire that these Gentlemen would take my Case into Consideration, as they would their own, and I desire that the Lord would give them Direction that they may do that which is according to Justice and Mercy; that is all that I have to say my Lords.

L. C. Bar. You Gentlemen that are sworn of this Jury, you see the Prisoner Mr. *Scroop* hath been indicted for Imagining and Contriving the Death of his late Majesty, of Blessed Memory, King *Charles* the First. You see there are several Things in this Indictment; the Charge is the Imagining and Compassing the Death of the King. In the Indictment there are several Matters of Fact to prove this Imagination. The Imagination is the Treason, the Matters of Fact to prove it are but the Evidences of that Imagination; if any one of them be proved to you it is sufficient, the one is Consulting and Meeting together how to put him to Death, the other Sitting and Assuming Authority to bring him to Trial. Then you have a Sentence by the Court to put the King to Death thereupon; afterwards he was put to Death: Any one of these Matters are Evidence enough for you to prove the *Indictment*; for though the *Indictment* concludes that so they did *Imagine* and *Compass* the Death of the King, and that the King was put to Death in Manner and Form as aforesaid; the Manner and Form aforesaid goes to this, to the Imagination of the Heart; for the *Law* did not think any one would put the King to Death, they thought it so a Crime, they thought it not convenient to bring it into the Statute. But the *Compassing* and *Imagining* the Death of the King is made Treason: Then to apply it, this Fact, to the Gentlemen, it appears to you hereby the Proofs against him. Here is Mr. *Masterfon*, he swears he saw him sit in that pretended Court, there was your Evidence of the first, the first was their *Meeting*
 G 3 *together*;

together; and of the Second too, they did *assume Authority* upon them; and he swears further to the *Sentencing*, That the Prisoner was there. Here were the *Three Overt-Acts* all proved. He confesses he did Sign the *Warrant* for putting the King to Death: This, without any Witness at all, was a sufficient Proof, a Proof of Proofs. The other Witnesses, you hear what they say; you hear Mr. *Kirk*, Mr. *Clark*, Mr. *Nutley*, swear all to his Sitting there. It is true, when this comes to the Particulars where he sat, you must remember it was Twelve Yeats ago; when a Man sees a mixt Number of about Eighty Persons, it is impossible a Man should be able to answer this Particular after Twelve Years where such a one sat; but you may see by his Sentencing what he did. They all witness they saw him positively; and one tells you, *He wondered he saw him there*; and indeed it might be a Wonder; for Mr. *Scroop* (to give him his Right) was not a Person as some of the rest, but he was unhappily engaged in that Bloody Business, I hope mistakenly; but when it comes to so High a Crime as this, Men must not excuse themselves by Ignorance or misguided Conscience. As to God, for this *Horrid Murther of the King* somewhat may be, but there is no Excuse or Extenuation before Man; there may be, I say, before the Lord. You see the Proof is full against this Gentleman, as full as may be; Witnesses saw him Sir, and he himself confessed he Signed the *Warrants*. I have no more to say to you, but, *Gentlemen*, you see what it is; I think for Matter of *Fact* you need not go from the Bar; but I leave it to you.

Scroop. My Lord —

Lord Chief Baron. Mr. *Scroop*, If you have any Thing to say when the *Jury* have brought in their Verdict, if you will say any Thing for Matter of *Mercy*, the Court will hear you.

Scroop. I thank your Lordship.

The Jury went together, and presently settled themselves in their Places.

Clerk. A. Scr. Hold up thy Hand. Look upon the Prisoner. How say you? Is he Guilty of the Treason whereof he stands Indicted, and hath been Arraigned, or, Not Guilty?

Fury.

Jury. Guilty.

Clerk. What Goods and Chattels, &c.

Jury. None that we know.

L. Chief Bar. If you will say any Thing the Court will hear you.

Scroop. I have no more, my Lord, but refer myself to this Honourable Court.

Clerk. Set *John Carew*, *Tho. Scot*, *John Jones*, and *Gregory Clement* to the Bar, who were set accordingly; and being Comanded, they severally held up their Hands.

Clerk. These Men that were last called, &c.

Sir Tho. Allen, Lay your Hand on the Book: Look, &c.

Carew. I Challenge him.

L. C. Bar. Are you all agreed as to your Challenges?

Pris. No, my Lord.

L. C. Bar. Then we must do as before, sever you, and go to Trial severally: Take the Three away, and let *Mr. Carew* stand at the Bar.

Challenged, *Charles Pitsfeld*, *Will. Will. Smiths*,
Rich. Rider, *Edward Rolph*, *James Shercroft*, *Tho. Uffman*,
Francis Beal, *Will. Whitcombe*, *Samuel Harris*, *Jo. Nicol* of
Finchley, *George Righb*, *Tho. Fruen*, *Ab. Newman*, *Tho. Blithe*,
Will. Vincent, *James Hawley*, *Chr. Abdy*, *Tho. Bide*, *John*
Smith, *Abr. Scudamore*, *Ralph Halsel*, *John Galliard*. In all
23.

Jury Sworn, *Robert Clarke*, *Thomas Grover*, *Rich. Whaley*,
Sam. Greenhil, *Nicholas Raynton*, *Tho. Winter*, *Rich. Cheney*,
John Kerk, *Rich. Abel*, *Thomas Morris*, *George Tirrey*, *Thomas*
Swallow; in all 12.

If any Man can inform my Lords the King's Justices, &c.

Clerk. *John Carew*, Hold up thy Hand.

You that are sworn look upon the Prisoner: You shall understand, &c.

Sir Edward Turner. May it please your Lordships, our Hue and Cry still proceeds against the Murtherers of our late Sovereign Lord King *Charles* the First of Blessed Memory, and this Gentleman the Prisoner at the Bar is apprehended as one among others for shedding that Precious Blood. Gentlemen of the Jury, he stands indicted before

you; for that he (I cannot express it better) not having the Fear of God before his Eyes, but being seduced by the Instigation of the Devil, he did Imagine and Compass the Death of his said late Majesty In Prosecution of this, Gentlemen, there be several Things that are mentioned in the Indictment, which are the open Acts to discover to you these Secret and Private Imaginations. He did meet and consult with divers Persons touching the Death of the King, that did usurp and take upon them to exercise a Power and Jurisdiction to Try the King; and finally, most horribly put him to Death. The Treason by the Statute of 25 *Edw. 3.* and which you are to enquire of, is, the Imagination and Compassing the Death of the King, the rest of the Indictment are but Particulars to prove that he did so Imagine and Compass the Death of the King. If we shall prove these, or any of these Facts, you have then sufficient to convict them. There was a Thing they called a High Court of Justice, that was set up, wherein they did intend to Try our late Sovereign Lord, and a Precept made, and that under the Hand and Seal of the Prisoner at the Bar, amongst others, for summoning and convening that Bloody Court, where (among the rest of the Miscreants) the Prisoner at the Bar did sit, and had Confidence, nay, Impudence, to pronounce Judgment against his Sovereign. In this he rested not, but he, among them, set his Hand and Seal to that Bloody Roll or Warrant for putting him to Death, which accordingly was done, and to these several open Acts we shall call our Witnesses, and so proceed.

M. Masterfon, M. Clark, and M. Kirk, sworn.

Coun. M. Masterfon, look upon the Prisoner, did you see him sit in that they called the High Court of Justice?

Lord Chief Baron. Mr. Carew, if you will have Pen, Ink, and Paper, you may have it, pray call for it.

I have no need of it.

Coun. Mr. Masterfon, did you see, &c.

Ma. My Lords, and Gentlemen of the Jury, I was present at that Assembly, which they called the High Court of Justice for Trial of the King, upon the 22d, 23d, and 27th, Days of *Jan. 1648*, and there I saw the King stand a Prisoner

soner at the Bar. I saw this Gentleman, the Prisoner at the Bar, sit upon the Bench in that Court, as one of his Majesties Judges; particularly upon the 27th Day of *Jan.* which was the Day of Sentence, I saw him sitting there.

Coun. Mr. *Clark*, You hear the Question; Do you remember that you saw the Prisoner at the Bar sitting in that which they called the High Court of Justice?

Mr. *Clark*. I remember I saw the Prisoner at the Bar sitting in that which they called the High Court of Justice for the Trial of the late King, and particularly I took Notice upon the 23d and 27th of *Jan.* 1648 that he was present.

Coun. What was done upon that 27th Day?

Mr. *Clark*. The 27th Day the late King was sentenced to Death.

Fury. What is your Name, Sir?

Coun. His Name is *William Clark*.

Coun. Mr. *Kirk*, What say you to the former Question touching the Prisoner, his being at that which they called the High Court of Justice?

Mr. *Kirk*. My Lords. and Gentlemen of the Jury, I was present at the Trial of his late Majesty of Blessed Memory, I saw that Gentleman, the Prisoner at the Bar, several Days there, particularly the Day of the Sentence, which was the 27th Day of *Jan.* 1648, when the Sentence was passed he rose up, assenting to it. Then the Warrant for summoning that pretended Court was shewed to Mr. *Kirk*.

Coun. Do you believe that Hand to be the Hand of Mr. *Jo. Carew*, Prisoner at the Bar?

Kirk. My Lords, I do believe it to be his Hand; I have seen his Hand to several Orders, and being very well acquainted with his Hand-writing, I believe it to be his Hand as much as any Man can possibly know another Man's Hand. Then the Warrant for Execution of the King was likewise shewn him.

Coun. Is that the Hand also of the Prisoner at the Bar?

Kirk. It is the same Hand, my Lord.

Court. Was Mr. *Carew* a Member of the Long Parliament?

K. Yes, my Lord.

Coun.

Coun. Had you Occasion to be acquainted with his Hand.

K. My Lord, I have seen him set his Hand several times, to Orders and other Papers.

Mr. Farrington sworn.

Coun. Do you know (the Warrants being shewn him,) those Hands to be the Writing of the Prisoner at the Bar?

Far. My Lords, really I believe these are his Hands.

Court. Are you acquainted with his Hand?

Far. Yes, my Lord, and I do believe these to be his Hand-writing; I did not see him write them, but so far as possibly a Man can know another's Writing I do believe these to be his.

Court. If you will ask to see them you may see them *Mr. Carew.*

Ca. Please you to go on. *Here they were both read.*

Coun. May it please your Lordships, we shall not need to trouble the Jury any further, we have proved that the Prisoner did Sign that Warrant for summoning that Court of Injustice, that he sate there and sentenced the King to Death among other, and that he signed the Warrant for Execution.

L. Chief Baron. *Mr. Carew,* you have heard the Evidence, you may please to speak what you think fit for yourself.

Ca. My Lords, the Crimes that are here laid to my Charge in this Indictment are Treason and Murther.

L. Chief Baron. I would not have you to be mis-informed, it is Treason only, but it carries the other in with it, Murther.

Ca. Because you say it carries the other inclusively.

L. Chief Baron, It doth, the Charge is the Compassing and Imagining the Death of the King, the other is but Evidence.

Ca. Then the Thing that I stand upon before the Lord, and before you all, I say before the Lord, before whom we must all stand, and give an Account of this Action, which is a very great and weighty one: And whereas it is charged there,

there, for I shall not trouble you with many Words as to the Particulars, or as to the Proofs, but I shall ingeniously acknowledge what the Truth is, and how far I can believe it; and therefore I say as to the Beginning of what was charged by the Council, and according to the Course of the Indictment, that what was done in those Things, that it was not having the Fear of God before mine Eyes, but being moved by the Devil, and that it was done with a Traiterous, Malicious, and Devilish Heart, and all those Things mentioned in the Indictment: As for that I can say in the Presence of the Lord, who is the Searcher of all Hearts, that what I did was in his Fear, and I did it in Obedience to his Holy and Righteous Laws.

Here the People humm'd ———

L. C. Bar. Go on, he stands for his Life, let him have Liberty.

Ca. It is Part of my Charge not to have the Fear of God, &c. I did such and such Things. I hope I may have Liberty.

L. C. Bar. Go on, you shall not be interrupted.

Ca. I say that I did it in the Fear of the Lord, and I will begin with that and confess ingenuously the Truth of it. When this came into Question, there was an Ordinance brought in to Try the King, where my Name was not as one of the Judges. There was another afterwards, an Act which I shall mention upon what Ground by and by, what that was, and that Act was brought in and committed, and Names brought in, and my Name was not brought in, and so afterwards my Name was put in, and seeing it I did strike it out: After the Committee was up, I told them I did desire to be excused in such a Business. I have told you how, wherein, and the Ground that I did it, which I shall leave with the Lord, in whose Hand your and my Breath, and all our Breaths, are; and therefore when it was so, I did, because of the Weight of it, as being a very great and special Thing, and so I was very unwilling, because of there being enow, which I thought had more Experience every Way for so great a Concernment as that was to be employed rather than I; yet being satisfied with that Authority

ity that did it; this is to shew you how that I had the Fear of the Lord, and did weigh the Things: After that, when the Bill was brought into the House, my Name was put in there with several others, so I came to be in; and what I did was upon these Two Accounts: First in Obedience (as I told you) to the Lord, which was the chief Thing, and in Obedience to that which was then the Supreme Authority of this Nation; and therefore I shall mention these Grounds very briefly, because indeed the Things that are controverted here at this Time, they have been controverted in the Face of the whole World in several Nations; and the Lord hath given an Answer upon solemn Appeals to these Things; I shall therefore mention them very briefly, because they have been so publick. The *Declarations* and *Remonstrances* that have passed between the King and Parliament concerning the beginning of the Wars—

L. Chief Baron. Mr. Ca. I would be very loth to interrupt you, but I see what Course is taken, and the Peoples Eyes are upon you: You seek Delays, and against the Course of Prisoners you say you will confess, but you do confess the Fact after you have spent the Time; and all the Witnesses are heard for this that you speak of now; you go about to justify as in the Fear of the Lord, or any Thing of that Nature, that we cannot allow of; but we do allow you to speak and give the Heads of what you will say as to the Matter of Fact; but to hear you make Discourses and Debates which are a Justification of a horrid and notorious Treason, we cannot hear it; we ought not to hear the maintaining of open Treason; cannot hear you to speak that upon your opening, which is Treason: We are willing that you open the Heads what you have to say; we are upon our Consciences, and to appear before God for what we do, and so are you too; but remember the Devil sometimes appears in the Habit of an Angel of Light. If you will couch your Matter in a few Words, the Court affords you Liberty, which is indeed beyond the strict Rules of Law.

Ca. You say you sit here by the Laws of the Land, and are sworn to maintain the Laws. We ought not that we should plead to this Indictment, for what we did was by an Act of Parliament.

Court.

Court. Pray Sir, this must not be let fall without Reproof, or rather Punishment.

Ca. *I believe there is no Precedent for it.*

Court. Sir, we know the Act of Parliament as well as you, and most of the standers-by: You go upon a false Ground, there was no such Act of the Supreme Authority as you pretend to; these are but Phantasms of your own Brain, and must not be suffered; these Things have been controverted and decided many a Time again and again.

Ca. *I desire to have Time to speak how it was begun and carried on, or else how shall I be able to make my Defence or to tell you what are the Heads I will insist upon? I shall declare the Grounds upon which the Parliament did proceed.*

L. Chief Baron. Mr. Carew, If that be your Ground, the Parliament did it, the House of Commons did it, I have something to offer (not to interrupt you) to the then Commons. —

Ca. *In my humble Opinion for the maintaining of this, it was by Authority, the supreme Authority, by which it was done.*

L. Chief Baron. Did you Sign this Warrant for the Summoning and Warning of that Court? And did you Sign the Warrant for Executing the late King?

Ca. *I desire I may go on with my Defence.*

L. Chief Baron. We would not have you be mistaken: You seem to confess the Act, and now you justify it; you cannot speak any Thing for your Justification till you confess the Fact.

Ca. *I shall speak to that in its Time.*

L. Chief Baron. You must speak to that first that is Matter of Fact, whereupon the Jury are to go.

Ca. *There is Matter of Law.*

Court. You must speak to Matter of Fact first.

Ca. *I say this is that I was about to say, That the Supreme Authority —*

Court. You must speak to the Fact first, Whether you did Compass, &c. the King's Death, or not? That is the First Ground; if you did not there's an End of the Business: It is proved against you that you did it; if you come to justify it, it must be when you have first agreed the Matter of Fact.

Ca.

Ca. I desire I may have Liberty to proceed, either for Matter of Fact, or Law, as I list.

Court. No, no, you must first speak to the Fact, you may be after heard. You know in all Cases they must begin with the Fact, either denying or extenuating; for Matter of Law in this Case must arise from the Fact.

Ca. But I humbly conceive there is a Matter of Law in this Case, and it is Matter of Law that is above the Jurisdiction of this Inferior Court.

Mr. Sol. Finch. I pray that he may be held to the Issue, *Guilty, or, Not Guilty*: If he deny the Fact let us rely upon our Evidence, and he upon his; he cannot come to Law till he hath confessed the Fact. The Question is, whether you did, or not? There is the Fact; if you have any Thing to justify, that follows.

Ca. I was upon that, and going on to shew the Reasons and Grounds of it.

Court. First you must confess it, if you will shew the Reasons why you did it.

Ca. I told you there was some Things I did.

Court. What are those some?

Ca. I do acknowledge that I was there at the Court.

Coun. Did you Sign the Warrants for Summoning that Court, and for Execution of the King?

Ca. Yes, I did Sign them both.

Coun. Then say what you will.

L. Chief Baron. Now go on.

Ca. In the Year 1640 there was a Parliament called according to the Laws and Constitutions of this Nation, and after that there was some Difference between the King and the Parliament, the Two Houses of Parliament, Lords and Commons, and thereupon the King did withdraw from the Two Houses of Parliament, as appears by their own Declaration, The Great Remonstrance, Printed in 1642, and thereupon the Lords and Commons did declare ———

L. Chief Baron. Mr. Carew, The Court are of Opinion not to suffer you to go on in this; they say it tends not only to justify your Act, but you cast in Bones here to make some Difference. You talk of the Lords and Commons, you have

have nothing to do with that Business ; your Authority that you pretend to was an Act of Parliament (as they called themselves) and that where there was but 46 Commons in the House, and but 26 voted it.

Ca. *I say, that the Lords and Commons by their Declaration* —

Mr. *J. Foster*. Hold your Hand a while, Sir, not so fast; you go to raise up those Differences which I hope are asleep; New Troubles; to revive those Things which by the Grace of God are extinct; you are not to be suffered in this; it is not the singling out of a few Persons that makes a Parliament. We see as before, so still, it is your Course to blow the Trumpet of Sedition. Did you ever hear, or can you produce, Instances of an Act of Parliament made by the House of Commons alone, though this was not the House of Commons, as you heard before?

Ca. *Neither was there ever such a War, or such a Precedent.*

Court. Nor we hope never will be: Pray remember, you were returned to serve in the House; what was that Writ that Summoned your Appearance? You had no Manner of Ground in the World to go that Way that you did.

Coun. We pray that the Prisoner at the Bar give us Patience a little to repeat that to him which your Lordships have been so often troubled with declaring; this is not the First or Second Time that in this Publick Assembly it hath been said, That neither the Lords nor the Commons, jointly nor severally, have any Power at all to proceed upon the Person of the King; that it is not in their Power to condemn any Man in *England* without the good Pleasure of the King, much less the King himself; and that this is the great Liberty of the People of *England* that it should be so; and it was the First Breach and Invasion of our Liberty that that First Parliament made, and which you justify in the Name of the Lord. In this Case to throw us upon Debates of the War, and to talk here of the Causes and Reasons of that Quarrel which ended in such a Tragedy. For this Person to come here with this Confidence, and to justify it, but that he knows he cannot be in a worse Condition,

dition, one would wonder it should fall from any Man that hath any regard of himself; it is all one to them that Perish whether they fall by one Sin, or Multitudes. He makes no Scruple to multiply Treasons; I do beseech your Lordship he may not offer as he hath begun, but that the Jury may proceed.

Court. All the Court are of the same Opinion, not to hear any Thing like the former Discourses.

Ca. *I desire I may be heard, I have not Compassed the Death of the late King, Contrived the Death of the King; what I did I did by Authority.*

Court. This is not to be heard; you have heard what hath been said to you, there could be no such Authority, neither was, nor could be; but you would by a Wire lace bring it in by this; you have confessed the Fact, which must be left to the Jury,

L. Ansley. I think you were present in the House of Commons when that Vote passed for Agreement with the King in the Treaty at the *Ile of Wight*. You know the King having condescended to most of the Desires of his Parliament, there was a Debate in the House, and a Conclusion that they were Grounds for Peace. You know the Lords and Commons did resolve to agree with their King; when that was done, that would not satisfy you, and other Members of the House; then you go and contrive New Ways; you contrive a New-fashioned Parliament, the driving away many Members by Power, which you could not do by the Law of the Land: Nay, the Parliament had declared against that which you pretend is by Authority, is no Authority; for a few of you set up an Arbitrary Parliament of a few of yourselves, when you had driven away the rest: This Kind of Parliament gives you the Authority you pretend to. You were saying that the Parliament was called at first, the Lords and Commons by the King, according to the Antient Constitutions of the Laws: Did such a Parliament give you such Authority as you pretend to, an Act of Parliament, as you call it, which was but an Order of some of the Commons, and but a few of them; you can have no Manner of Justification, and therefore

therefore your Plea must be over-ruled as Yesterday it was in the like Case. You are Indicted upon a clear Act of Parliament of 25. *Edw. III.* and you defend your self upon Pre-
 sence of an Act of Parliament which hath been over-ruled as no Act.

Ca. I am a Stranger to many of these Things which you have offered, and this is strange, you give Evidence sitting as a Judge.

L. Ch. Bar. You are mistaken, it is not Evidence; he shews you what Authority that was, an Authority of 26 Members: How is this Evidence? *Mr. Carew*, if you have any Thing more of Fact go on: If you have nothing, but according to this kind of Discourse, I am commanded to direct the Jury.

Ca. I am very willing to leave it with the Lord, if you will stop me that I cannot open the true Nature of those Things that did give me ground of Satisfaction in my Conscience that I did it from the Lord.

Mr. Sol. I do pray for the Honour of God, and our King; that he may not be suffered to go on in this manner. You have been suffered to speak, you have said but little, only Sedition; you pretend a Conscience, and the Fear of the Lord, when all the World knows you did it against the Law of the Lord, your own Conscience, the Light of Nature, and the Laws of the Land, against the Oaths you have taken of Allegiance and Supremacy.

Ca. Gentlemen of the Jury, I say I shall leave it with you. This Authority I speak of is right, which was the Supreme Power; it is well known what they were.

Coun. It is so indeed, many have known what they were.

L. Ch. Bar. *Mr. Carew*, You have been heard what, and beyond what, was fit to say in your own Defence; that which you have said, the Heads of it you see the whole Court hath over-ruled. To suffer you to expatiate against God, and the King, by Blasphemy, is not to be endured; it is suffering Poison to go about to infect People; but they know now too well the Old Saying, *In Nomine Domini, in the Name of the Lord*, all Mischiefs have been done, that hath
 H been

been an Old Rule. I must now give Directions to the Jury.

L. Ch. Bar. Gentlemen of the Jury ———

Ca. I have desired to speak the Words of Truth and Soberness; but have been hindered.

L. Ch. Bar. Gentlemen of the Jury, you see the Prisoner here at the Bar hath been Indicted of Treason, and this was for Compassing and Imagining the Death of our Sovereign Lord, K. Charles the First, of Blessed Memory, This Indictment sets forth several *Overt-Acts* to prove this Imagination, for otherwise it is Secret in the Heart; the Fact itself, the Treason itself, is the Imagination of the Heart: The *Overt-Acts* that are laid down in the Indictment to prove this, *That they did consult and meet together how to put the King to Death, That they did sit upon him: And Thirdly, That they did Sentence him to Death, and afterwards he died.* You heard what is proved against the Gentleman, the Prisoner at the Bar, by several Witnesses: His own Confession, That he signed the Warrant for Summoning and Convening that Court together, whereby the King was to be brought to his Trial; and that he sate at his Sentence, and issued the Warrant for his Execution: You saw that this Gentleman did the Fact, did Compass and Imagine the King's Death. That which you are to try is this Issue, being Indicted for *High Treason*, and pleading *Not Guilty*; whether this Gentleman that went so far, Sate upon him, Condemned him, Signed the Warrant for his Execution, did not Compass and Imagine the King's Death? I think you need not stir from the Bar where you are, but I leave that to you.

After a very small Time of Consultation by the Jury amongst themselves at the Bar, they agreed in a Verdict. Silence was Commanded.

Clerk. John Carew, Hold up thy Hand; Gentlemen of the Jury, look upon the Prisoner: How say you? Is he Guilty of the horrid Treason whereof he stands Indicted, or not Guilty?

Foreman. Guilty.

Cl. What Goods and Chattels, &c.

Fury. None that we know of.

Mr.

Mr. Scot's Trial, on Friday October 12. 1660.
At the Sessions-House aforenamed.

Clerk. Set Thomas Scot to the Bar, (which was accordingly done) Thomas Scot, Hold up thy Hand. These Men that have been of the last Jury are to try, &c. If you will Challenge all, or any of them, you must Challenge them before they are sworn.

Scot. I desire that those Men who have been of the former Jury may not be named. I know my Liberty of excepting against my Number.

Lo. C. B. Mr. Scot, That which you do desire is a Thing not right; the Offence with one is not the same with others: I speak not but that the Court will do you all Right; the Court will grant it if you will wave your Challenges; but if you mean those that have been by others Challenged, it is against Law.

Scot. I am willing to bring myself upon my Trial, and I will take the ordinary Way of Excepting and Challenging.

Sir Hen. Worth, Sir Fer. Whitchcote, James Hawley, Rich. Rider, Fra. Beale, Chr. Abdy, Nicho. Raynton, Tho. Winter, John Kirke, Rich. Abel Sir Tho. Aleyn, Abr. Scudamore, Ralph Halsall, George Tirrey, Tho. Swallowe, Charles Pickerne, Arthur Newman, Tho. Blinbe, William Vincent, Rich. Whaley, were called and challenged.

Thomas Grover, Edw. Rolfe, Tho. Ufman, William Whitcombe, Rich. Cheney, Tho. Bide, Charles Pitfeild, John Smith, Tho. Morris, Tho. Fruen, Henry Twysford, Samuel Starnel, were the Jury sworn.

Clerk. Crier make Proclamation.

Crier. O Yes, if any Man can inform my Lords the King's Justices, &c.

Clerk, Tho. Scot, Hold up thy Hand. You that are sworn of this Jury you shall understand that the Prisoner at the Bar stands Indicted by the Name of Tho. Scot, late of Westminster, in the County of Middlesex, Gent. For that he, together with John Lisle, &c.

[Here the Indictment was read.] Unto which Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty, and for his Trial hath put himself upon God and the Countrey, which Countrey you are. Now your Charge is to enquire whether, &c.

Mr. Sol. Gen. You that are sworn of this Jury, this Inquisition for Blood, Royal Blood goes on against the Prisoner at the Bar; he stands Indicted for Compassing, Imagining, and Contriving the Death of the late King, of Blessed Memory: It is laid to his Charge in the Indictment, that he did Assemble at *Westminster*, and that he, with other Persons, usurped the Authority of Sitting and Sentencing to Death his said late Majesty, and that in Consequence and Pursuance of that the King came to his Death: The Treason he stands charged with is the Compassing and Imagining the King's Death; the other Parts of the Indictment are but Overt-Acts, that do but Evidence and Prove the Corruption of his Heart. If we prove but some of these Overt-Acts, then you must find him Guilty. Our Evidence against this Gentleman will be thus: We shall call Witnesses to prove his Sitting in the Court, Sentencing his King, while his King stood a Prisoner at the Bar; the Warrant for Execution of the King, directed to certain Persons to see Execution done accordingly, was under Hands and Seals, and among those Hands and Seals the Hand and Seal of the Prisoner at the Bar is one: And then we shall produce to your Lordships Witnesses to shew you with what a hard and impenitent Heart this hath been Committed; for he so gloried in the Act, that he desired it might be writ upon his Tomb——

Mr. Nutley, Mr. Kirke, Mr. Masterfon, and Mr. Clark, sworn.

Coun. Mr. Masterfon, be pleased to tell my Lords and the Jury if you have seen the Prisoner at the Bar sit in that which they called the *High Court of Justice*.

Mr. M. My Lords, and Gentlemen of the Jury, I saw the Prisoner at the Bar present at the High Court of Justice (as they call'd it) for the Trial of the late King some Days; that is to say, either upon the 22d or 23d Day of *Jan.* 1648, but particularly upon the 27th Day of that Month in the said Year,

Year, when the Sentence of Death was pronounced against his late Majesty, I saw the Prisoner at the Bar present.

Coun. As one of the Judges do you mean?

Mr. Ma. As one of the Judges sitting upon the Bench.

Scot. Do you know whereabouts I sate?

Mr. Ma. I cannot satisfie you in that, but I saw you sitting upon one of the Benches.

Coun. *Mr. Clark*, you hear the Question, pray answer what you know touching it.

Mr. Cl. My Lords, and you Gentlemen of the Jury, I was present in the Year 1648, when his late Majesty stood a Prisoner at the Bar in that which they called the *High Court of Justice*, and among other Persons there present in that Business, I observed *Mr. Scot*, the Prisoner at the Bar, to sit as one of the Judges, and particularly upon the 23d and 27th Days of *Jan.* in the said Year, upon which last Day the Court pronounced Judgment upon the late King.

Coun. Did he stand up as assenting to the Sentence?

Mr. Cl. They all stood up to my Apprehension, I know not particularly whether the Prisoner at the Bar did.

Coun. *Mr. Kirke*, tell my Lords and the Jury your Knowledge in this Business touching the Prisoner at the Bar.

Mr. K. I was present at the Trial of his late Majesty several Days; among the rest of the Persons that sate in the Court as Judges, I saw the Prisoner at the Bar, and particularly upon the Day of the Sentence, the 27th of *Jan.* 1648. the Court stood up unanimously as assenting.

Coun. Shew him the Warrant for Execution.

K. This is his Hand.

Coun. Have you seen his Hand often?

K. Yes, Sir, and am well acquainted with it.

George Farrington sworn.

Coun. Shew *Mr. Farrington* the Warrant; do you know that to be *Mr. Scot's* Hand-writing?

Mr. Far. I did not see him write it, but I do verily believe it to be his; I have often seen his Hand-writing.

Coun. *Mr. Nutley*, do you know *Mr. Scot's* Hand-writing? Is that *Mr. Scot's* Writing? [The Warrant shewn him.]

Mr. Nutley. I do verily believe it is.

Coun. Have you been acquainted with the Writing of his Name?

Mr. N. I have seen him write his Name, and do verily believe it to be his Hand.

Coun. Clerk, read the Warrant: He read it accordingly.

Coun. That which remains of our Evidence is to prove his boasting of this Villany; we shall desire you to hear *Sir Theophilus Biddolph*.

Sir Theo. Biddolph sworn.

Coun. Pray tell my Lords and the Jury what you have heard the Prisoner say touching this Business of putting the King to Death.

Sir Th. Bid. I did hear him confess that he did Sit as one of the Judges of the late King; and that he was so far from repenting of the Act, that he did desire when he died that a Tomb-stone might be laid over him with this Inscription, *Here lies Thomas Scot, who adjudged to Death the late King.*

Coun. Where did he say this?

Sir T. B. In the Parliament House.

Coll. Copley, Esq; sworn.

Coun. Pray *Mr. Copley* tell my Lords what you know of this Business.

Mr. Cop. My Lord, I was one of the Secluded Members; when we were called to sit in the House again, the Prisoner at the Bar, *Mr. Thomas Scot*, (I think it was the last Day we fate,) there being some speaking of the horridness of the Fact, he made a long Harangue about that horrid Act; and he said, *He hoped he should never repent of it*, and desired that when he died it might be written upon his Tomb-stone, *Here lies Thomas Scot, who adjudged to Death the late King.*

Coun. We have done with our Evidence.

Court. *Sir Theophilus Biddolph*, When was it you heard him speak those Words?

Sir T. B. To my best Remembrance it was in *Richard's* Parliament; it was about *January* or *February* was Twelve Months.

Coun. Were not you a Member for the City of London in that Parliament?

Sir T. B. Yes.

Coun.

Coun. Mr. Copley, When was it that you heard it?

Mr. Cop. It was in *April* last.

Mr. Soll. Gen. It was a settled Persuasion of his Heart, and he thought it fit to be gloried in.

The Lord Mayor Elect sworn.

Coun. Pray my Lord tell my Lords what you know concerning the Prisoner at the Bar.

Lord M. Elect. My Lords, I was one of those Secluded Members that were returned again a little before the coming in of His Majesty: Upon the last Day of our Sitting, Mr. Scot seeing the House must break, said, *Their Heads must be laid to the Block if there were a new Parliament; for,* said you, (looking on Mr. Scot,) *I confess I had a Hand in putting the King to Death. and I desire all the World may take Notice of it, and I desire when I die it may be written on my Tomb, I do not repent of any Thing I have done; if it were to do I could do it again.*

Mr. Soll. Gen. Do it again! He follows his Blows Home.

William Lentball, Esq; sworn.

Coun. Mr. Lentball, pray be pleased to tell my Lords, and the Jury, what you do remember of any Discourse of Mr. Tho. Scot, (the Prisoner at the Bar,) tending to the glorying in this Act, or any Thing in Justification of that Act.

Mr. Lentb. My Lords, the last Day it was, the last Instant of Time, we were resolving of breaking the House, there was some Opposition in it, not very much: The general Consent of the House was to dissolve it; I must confess at that Time I did hear Mr. Scot much justify that Act of the Death of the King, (which truly I was much offended at,) I confess to you upon my Oath touching his Speech of the Inscription upon his Tomb I did not hear that: Justifying the Death of the King he made a long Harangue about, and he sat at the upper end of the Gallery; but these Words, *Of having it written upon his Tomb, and to have all the World take Notice of it,* I do not remember.

Coun. My Lords, my Lord Mayor *Elect* omitted something; pray let him speak to it.

L. M. Elect. My Lords, the Conclusion of his Speech ended thus; *Being it is your Pleasure to have it so,* (the House

Dissolved) I know not how to hinder it; but when that is done I know not where to hide this hated HEAD of mine.

Coun. We desire to hear what the Prisoner will say for himself.

Scot. I have no Certainty from the Witnesses that I was there, but in a wandring Way, they know not where I sate, nor my Posture.

Mr. Baker sworn.

Coun. We do not call this Witness as Material, for we must insist upon it quite through, that after 12 Years Time it is not possible a Witness should remember where every particular Person sate. Pray hear this Witness.

Mr. Baker. I do perfectly remember that Mr. Scot sate Two Rows above Mr. Bradshaw on his Left Hand in that which they called the High Court of Justice.

Scot. As to the Warrant you speak of, I know not what it signifies, I desire to know what the Nature of it is.

Coun. The Warrant hath been read, it is not produced against him as a Record, for then it needed not be proved: But it is produced against him as an Evidence in Writing under his own Hand, that he was consenting to the Death of the King.

Scot. They may very much mistake my Hand; you speak of Words that I should utter in Parliament, I do humbly insist upon it that I am not to answer, nor they alledge, any Thing of that Nature: It is a high Breach of Priviledge.

Coun. There is no Priviledge of Parliament for Treason. First, some of the Words were spoken in Richard's Parliament, and that you do not own to be a Parliament, then another Thing (a known Rule in Law) there is no Priviledge of Parliament for Treason.

Scot. I have heard the Rule, but do not so well understand it, of that spoken in Richard's Parliament; it will be a Nice Thing for me to distinguish between that and another Parliament; but this I think, that Convention of the People ought to have the Priviledge of the Parliament as well as any other. I humbly conceive it was Testimony ought not to be given to you; whatever I say in Parliament, the Priviledge extends to no more than this, that I may be lawfully secured till the Parliament hath been acquainted with it, but not finally concluded till the Parliament have heard it.

L. Ch. Bar. You are Indicted for Compassing and Imagining the

the Death of the King : I would have you understand, that in case a Man should commit an Act of Treason, be it in what Place soever, there is no Place of Sanctuary for Treason ; in case of Felony, if a Man be Indicted for Felony in the Parliament-House, during the Time of Parliament, this is not to be tried in Parliament, but according to the Rule of Common Law ; so in case of Treason, the House of Commons in Parliament doth not try Treasons : That Distinction which you make is nothing.

Scot. *I humbly conceive there is such a Priviledge, that no Man shall ever be called to Account for any Thing spoken in Parliament, if he be not called to Account by the House before any other Member be suffered to speak.*

Lord Ch. Bar. That is, the House will not determine ; but that doth not extend to your Case, you are not charged here criminally for speaking those Words that have been testified against you, but for Compassing and Imagining the King's Death, of which there are other Evidences, and this but an Evidence to prove that.

Scot. *My Lord, I never did say these Words with that Aggravation which is put upon them. I have a great deal of hard Measure ; as to say, I hope I shall never repent, I take God to Witness I have often, because it was spoken well of by some, and ill by others, I have by Prayers and Tears often sought the Lord, that if there were Iniquity in it he would shew it me ; I do affirm I did not say so.*

Mr. Baker. My Lord, I omitted something, which was this ; I had occasion to speak with Mr. Scot whilst Richard's Parliament was Sitting, and among other Discourse insisting upon some Things that Richard had done, saith he, *I have cut off one Tyrant's Head, and I hope to cut off another.*

Scot. *My Lord, this is but a single Witness.*

Mr. Sol. Gen. I suppose he meant Rich. for he was a Tyrant.

Lord Ch. Bar. Speak on Mr. Scot whatever you have to say.

Sc. *If that be laid aside as an Impertinency, I have the less to say.*

L. Ch. Bar. The next Thing you have to do is to answer to the Fact, whether you did it, or did it not.

Scot. *I say this, whatever I did, be it more or less, I did it by the Command and Authority of a Parliamentary Power ; I did sit as one of the Judges of the King, and that doth justify me, whatever the Nature of the Fact was.*

Lo.

Lo. Ch. Bar. We have had these Things alledged before us again and again: The Court are clearly satisfied in themselves that this Act could not be done by any Parliamentary Power whatsoever. I must tell you what hath been delivered, that there is no Power on Earth that hath any Coercive Power over the King, neither Single Persons nor a Community, neither the People Collectively nor Representatively. In the next Place, that which you offer to be done as by Authority of Parliament, it was done by a few Members of the House of Commons; there were but 46 there at that Time, and these 46, not above 26 that voted it, at that Time the House of Lords was sitting, who had rejected it, and without them there was no Parliament, there was a Force upon the Parliament, there was excluded Seven Parts of Eight: Supposing you were a full House of Commons, and that without Exception, there was not Authority enough; and it is known to you, (no Man better,) that there never was a House of Commons before this Time; that this Foul Act was made for erecting that High Court of Justice, (as you call'd it,) assumed that Authority of making a Law; you cannot pretend to act by Authority of Parliament; and because you would excuse it, you did it by Authority of Parliament, whether it were Good or no: If any Man do that which is unlawful by an unlawful Authority, the assuming to do it by that Authority is an Aggravation, not an Extenuation, of the Fact: It was over-ruled: I think my Lords will tell you, That they do not allow of that Authority at all, either to be for Justification or Plea.

Scot. My Lords, I humbly pray leave to say, that without Offence to the Court, (every Person whereof I honour,) this Court hath not Cognizance to declare whether it were a Parliament or no.

Lo. Ch. Bar. That was objected too; and we must acquaint you, That first of all it is no Derogation to Parliaments, that what is a Statute, or not a Statute, should be adjudged by the Common Laws. We have often brought it into Question, whether such and such a Thing was an Act of Parliament, or not; any Man may pretend to an Authority of Parliament: If Forty Men should meet at *Shooters*

ters-Hill, as the Little Convention did at Westminster, and say, We do declare ourselves a Parliament of England; because they do so, shall not this be judged what is a Statute, and what not? It is every Day's Practice, we do judge upon it; the Fact is so known to every Body, they did assume to themselves a Royal Authority; it hath been over-ruled already; it hath been the Mistake of many; the vulgar Acceptation of the Word Parliament. A Parliament consists of the King, Lords, and Commons; it is not the House of Commons alone, and so it is not by Authority of Parliament: It is not, unless it be by that Authority which makes up the Parliament: You cannot give one Instance that ever the House of Commons did assume the King's Authority.

Scot. I can many, where there was nothing but a House of Commons.

Court. When was that?

Scot. In the Saxons Time.

Court. You say it was in the Saxons Time; you do not come to any Time within 600 Years; you speak of those Times wherein Things were obscure.

Scot. I know not but that it might be as lawful for them to make Laws as this late Parliament, being called by the Keepers of the Liberties of England: My Lords, I have no Seditious Design, but to submit to the Providence of God.

Court. This is Notorious to every Man; this we have already heard and over-ruled.

L. Finch. That that I hope is this, That Mr. Scot will contradict that which he hath said before; that is, that he hopes he should not Repent, I hope he doth desire to Repent. Mr. Scot, for this we must over-rule it, as we have done before; there is nothing at all to be pleaded to the Jurisdiction, and this Point hath been determined before.

Scot. The Parliament in former Times consisted not so much of King, Lords and Commons, but King and Parliament. In the beginning of the Parliament in 1641. the Bishops were one of the Three Estates; if it be not properly to be called a Parliament, a Legislative Power, though it be not a Parliament, it is binding: If Two Estates may take away the Third, if the Second do not continue to execute their Trust, he that is in Occupancy may have

have a Title to the whole : I do affirm I have a Parliamentary Authority, a Legislative Power, to justify me.

Lo. Ch. Bar. Mr. Scot, what you speak concerning the Lords Spiritual is nothing to your Case, be it either one Way or other, it was done by an Act of Parliament, with Consent of the King, Lords, and Commons; though you will bring it down to make these Commons have a Legislative Power, I told you it was over-ruled before. We have suffered you to expatiate into that which was a Thing not intended by many of my Lords, that you should have any such Power to expatiate into that which is nothing but indeed to make a new Government, which is the highest Treason next to the Murthing of the King, in the World; to subvert the Laws, and to make a few of the Commons, nay, if they had been the whole, to make them to have the Legislative Power. *Mr. Scot,* if you have any Thing in Extenuation of the Fact we shall hear you, further we cannot.

L. Finch. If you speak to this Purpose again, for my Part I will profess myself I dare not hear further of it; it is so Poisonous Blasphemous a Doctrine, contrary to the Laws, if you go upon this Point, I shall (and I hope my Lords will be of that Opinion too) desire the Jury may be directed.

Scot. *I thought, my Lord, you would rather be my Counsel; it is not my single Opinion, I am not alone in this Case, therefore I think I may justify myself in it; it was the Judgment of many of the Secluded Members to own us to be a Parliament.*

Lord Annesley. What you said last doth occasion my Rising; you seem to deliver my Opinion, who you know could never agree to what you have alledged; truly I have been heartily sorry to hear the Defence you have made to Day, because you know I have had Letters from you of another Nature; I was very confident to have heard you an Humble Penitent this Day, instead of Justifying yourself: As to that which you say of the Secluded Members owning you to be a Parliament, they were so far from it, that you know for how many Years they lay under Sufferings and Obscurity because they could not acknowledge that an Authority which was not so: You cannot forget the Declaration of both Houses that was published upon a Jealousie that the People had,

had, they would change the Government of King, Lords and Commons; it was far from their Thoughts, it was called in that Declaration, *A Black Scandal cast upon them*: This Declaration you know was by Order of both Houses affixed in all Churches of *England*, that People might take Notice what they held to be the Fundamental Government of this Kingdom, *King, Lords, and Commons*: After this for you to set up another Government, and under them to act such Things that one would think should hardly enter into the Heart of any Man. You know very well all along they declared themselves Faithful Subjects to the King, and so would have lived and died; and you might have had your Share of the Happiness of that Peace, if you could have had an Inclination to submit to that which both Houses had resolved, when you and others could not bring your Hearts to stoop to your Fellow Subjects, when you could not submit to that equal Rule to take your Share with them. When Pride carried some so high, then was the beginning of your Fall and others; and none could expect other than what is now come to pass, that they should come to that Shame and Sorrow that this Day hath brought upon you: I could have wished to have heard nothing but an humble Confession of the Fault that hath been clearly proved, and no Justification of it: You have sworn, among others, to preserve the Laws and People of the Kingdom; but you drove away not only the House of Lords, but most of the Commons, and then to give the Name of a Parliament to the Remainder, this is a great Aggravation of your Treason. I think we of the Secluded Members could not have discharged our Duty to God and the Kingdom if we had not then appeared in Parliament to have dissolved that Parliament, and so by our joint Assent put an End to all your Pretences, which if we had not done we had not so soon come to our Happiness, nor you to your Miseries.

L. Ch. Bar. The Court hath told you before their Opinions in the Thing, and no further Debate is to be allowed in this, the Justification of it doth comprehend Treason; we ourselves are not by Law to allow the Hearing of it. If you have nothing to say for yourself I must give Direction to the Jury.
Scot.

Scot. I humbly crave Leave to move the Jury that they besink themselves, and consider of it rather as a special Verdict, than of a definitive one, I think there is Cause of a Special Verdict.

Court. If there was need of a Special Verdict, (we are upon our Oaths,) I should give Direction to the Jury. What we do, we do upon our Oaths, and must answer it before God Almighty. The Court hath delivered their Opinions before, that in this Case the pretended Authority under which you did derive that Power which you did execute, that it is no Authority, it is void in Law, it is a Foundation (if it were true) of subverting all Laws, and indeed of all Religion; a Power that you assumed to yourselves of Judging and Condemning your King, that you would countenance such an Authority is a great Aggravation of the Fault. They are Judges whether you did Imagine or Compass the King's Death, that is all the Jurors have to do. Gentlemen of the Jury —

Scot. I would know what particular Law I have transgressed in this Thing.

Court. The Law of God and Man, 25 Edw. III.

Scot. I humbly conceive that reaches not to this Case.

Court. To satisfy you in that, the very Words of the Statute are, *If any Man do Compass or Imagine the King's Death it is Treason*; the Indictment is, That you did Imagine and Compass the Death of the King; if the Fact be proved against you, you are within the Statute.

Scot. You will not say the King shall be a Traytor if he shall Compass the Death of the Queen.

Court. The Queen is a Subject.

Scot. I am not yet convinced.

L. Ch. Bar. Gentlemen of the Jury.

Scot. I do plead and claim that I am within the Compass of several Pardons, and desire Council in that Particular; I do come within the Compass of his Majesties Pardon.

Lo. Ch. Bar. It you had not gone on to Matter of Justification you might have been more heard to this of Pardon, but after a Justification then to come for a Pardon, which implies a Confession of Guilt; they are Contradictory; I must tell you we are now upon Point of Law, that Proclamation

[III]
on I doubt not but his *Majesty* will inviolably make good ; but we are not to judge of that, it is nothing to a Legal Proceeding : You are now in a Court of Law, it is not to be pleaded in a Court of Law ; the King's Pardon in Law must be under his Broad Seal : How far you are under that Proclamation Care will be taken, and what is fitting to be done will be done ; but it is nothing in the Matter of the Charge to this Jury.

Scot. I desire Council touching the Statute 23 Edw. III.

Court. You should have done it before you had confessed the Fact.

Scot. I may do it in Arrest of Judgment.

Lo. Ch. Bar. Mr. *Scot*, for that of the King's Proclamation, if you be within the Benefit and Compass of it, according to his Royal Word and Honour in it, you will have the Benefit of it, but it is not a Plea in Law, but it must be a Pardon under Seal ; whatsoever concerns that Proclamation will be considered, it is nothing to the Matter whereupon the Jury are to go.

Lord Chief Baron. Gentlemen of the Jury, you see the Prisoner, *Tho. Scot*, stands Indicted for Compassing and Imagining the Death of our Dread Sovereign King *Charles* the First, of most Glorious and Blessed Memory : He is Indicted for Compassing and Imagining his Death, there is the Treason ; and what is set afterwards in this Indictment is only to manifest this Compassing and Imagining, because that being in the Heart alone, without some Overt-Act no Body can prove it : There are several Overt-Acts laid in the Indictment ; one is, A Traiterous Consulting and Meeting together how to put the King to Death : Then a sitting upon the King as a Prisoner, being before them about his Life and Death : The Third is Sentencing to Death ; that which followed is, that he was Murthered : If any of these Acts should be proved the Indictment is proved ; for the Proof, there are several Witnesses have fully proved that he did sit there several Times, particularly upon *Jan. 27.* which was the Day of the Sentence ; that he did sit there all of them agree to that ; it is true, as to the Circumstance where he sat one Gentleman saith he sat in the Second Row, on the Left Hand of *Bradshaw* ; you will remember it is 12 Years ago,

ago, how any Man upon the View, and after so long a Distance of Time, should be able to remember in what Posture one Man was from the rest, I think neither you nor I can remember: Here is one proved to you that he did Sign that Warrant for Executing the King; he saith, *How can another know his Hand?* You see what the Witnesses say, they knew it; a Man can prove nothing more of another Man's Hand than that, unless they see it written; there is nothing to put upon you but his Words: You see what Words are aggravated against Mr. *Scot*; whereas he saith, it is a Breach of the Priviledges of Parliament; if it were so, it is nothing to this Fact; though another Man should break the Priviledges of Parliament, it is nothing to you; but besides, it is not a Breach of the Privilege of Parliament. You have heard the Witnesses what they have said against him. Mr. *Lenzhall* swears that he did speak at large fully in owning that Business of the King's Death; the rest swear positively to the same Effect, and that at several Times; what was that? He gloried in it, defended it, and said, *He could wish it were Engraven on his Tomb-stone*; he hath denied this that the Witnesses have proved: That which is left to you is, whether upon all this Matter that you have heard, whether the Prisoner at the Bar is Guilty of Compassing and Imagining the King's Death; and so go together——After a little Consultation together they settled in their Places again.

Clerk. *Tho. Scot*, Hold up thy Hand. Look upon the Prisoner at the Bar; how say you, is he Guilty of the Treason whereof he stands Indicted? Or not Guilty?

Fury. Guilty.

Cl. Look to him Keeper.

Cl. You say the Prisoner is Guilty, &c. and so you say all.

Fury. Yes.

Cl. Set Mr. *Scot* aside.

Clerk. Set *John Jones* and *Gregory Clement* to the Bar.

Which was done accordingly.

Thereupon the said *Gregory Clement* preferred his Petition to the Court. Indictment read against them both.

Lo. Ch. B. If you do confess your Offence your Petition will be read.

Clem.

Clem. I do, my Lord.

Lord Ch. Bar. Mr. Clement, if you do confess (that you may understand it) you must when you are called, and when the Jury are to be charged; you must say, (if you will have it go by Way of Confession,) that you wave your former Plea, and confess the Fact.

Clerk. Gregory Clement, you have been Indicted of High-Treason, for Compassing and Imagining the Death of His late Majesty, and you have pleaded not Guilty; are you contented to wave that Plea, and confess it?

Clem. I do confess myself to be Guilty, my Lord.

Clerk. Set him aside.

Clerk. John Jones, hold up thy Hand. These Men that were last called, &c. if you will Challenge all, or any of them, you must Challenge them when they come to the Book, and before they are sworn.

Jones. I confess I sate amongst them some Days, but not maliciously contrived the Death of the King.

Coun. He is troubled at the Form, he confesseth the Matter, that he was there sitting in the High Court of Justice. If he will not confess it, he knows we can prove his Hand and Seal to that Bloody Warrant. He is troubled that he is said to have Traiterously and Maliciously contrived the King's Death: He that doth these Acts towards it, is by Law responsible, as to the Malice.

Jury Sworn.

Sir Tho. Allen, Sir Henry Wroth, Sir Jer. Whitchott, James Hawley, Henry Mildmay, Christ. Abdy, Nich. Raynton, Richard Cheney, Tho. Bide, Charles Pitfield, Abraham Scudamore, Charles Pickerne, in all 12.

Cl. Crier, make Proclamation.

Crier. If any Man can inform, &c.

Cl. John Jones, Hold up thy Hand. Look upon the Prisoner, &c.

Mr. Sol. Gen. My Lords, and Gentlemen of the Jury, I must open to you, as to other Juries, that the short Point of this long Indictment is but this, that the Prisoner at the Bar did Imagine and Compass the Death of the King, which is your Issue to try. We shall prove it by those Overt-Acts,
I which

which the Law doth require. To prove the Sitting, Sentencing, and Signing the Warrant for Execution by the Prisoner at the Bar.

Coun. Call Mr. Clark, and Mr. Carr, and Holl. Sympsan, who were sworn.

Mr. Sympsan, did you see the Prisoner at the Bar sitting in that which they called the *High Court of Justice*?

Sym. I did see Mr. Jones sit divers Times, both there, and in the *Painted-Chamber*.

Jones. I do confess I sate divers times.

Coun. Did he sit the Day of Sentence?

Sym. I cannot say it.

Coun. Mr. Clark, you hear the Question, pray Answer my Lord.

Clark. My Lord, and Gentlemen of the Jury, I was there the 27th of Jan. 1648. I saw Coll. Jones there several Days before, but I did not see him that Day; his Name was called, but I do not know whether he was Present.

Coun. Mr. Carr, did you see him sit on the 27th Day, which was the Day of Sentence?

Carr. My Lords, he answered to his Name some Days, I am not able to tell what Day.

Mr. Nutley sworn.

Coun. Can you tell whether the Prisoner at the Bar was present in that which they called the *High Court of Justice*?

Nutley. The Prisoner at the Bar was several times in the Court, which was called the *High Court of Justice*; truly I cannot say whether he was there the 27th Day, the Day of the Sentence.

The Warrant for Summoning that Court being shewed.

Coun. Is that Mr. Jones's Hand (the Prisoner at the Bar) set to that Warrant?

Nut. I have been acquainted with his Hand, I do believe it is.

The Warrant for Execution was also shewed.

Coun. Is that the same Hand-writing?

Nut. Yes, I believe it is; he hath written several Letters to me.

Mr. Hartlib sworn.

Court. Mr. Hartlib, do you know Mr. Jones's Hand?

Hart.

Hart. I never did see him write, but I have seen several Letters out of *Ireland*, and other Papers which have been supposed to be his Hand-writing; this seems to be like that which was reputed to be his Hand.

Coun. Mr. Clark, do you know *Mr. Jones's* Hand-writing?

Cl. I have seen several Letters of *Col. Jones*, and these are like his Hand-writing; I do believe they are his Hand-writing.

Mr. Jones looks upon them both, and confesses they are like his Hand writing.

Coun. We have given our Evidence: What do you say for yourself before Charge be given to the Jury?

Jones. *I have little to say, your Lordships have already heard what is to be said in this Case; I have nothing to say to the Point; I am not fit to plead any Thing, especially in Matter of Law; I must wholly put myself upon the Lord, and this Honourable Court and Jury.*

Lord Ch. Bar. Gentlemen of the Jury, here is this Prisoner, *John Jones*, stands Indicted, for that he, with others, did Compass and Imagine the King's Death, that is the Substance of the Indictment. The Indictment sets forth several Acts, each proving the Compassing and Imagining the King's Death: One of them is, that he did consult and meet together, and propound how the King should be put to Death: The Second is, they did assume a Power to Judge the King: The Third is, that they did actually sit upon him: And the last of them is, that they sentenced the King, and afterwards the King was murdered. The whole Substance is, whether he did Compass and Imagine the King's Death. If any one of these Particulars that are alledged for the Overt-Acts be proved, you are to find the Indictment. He hath confessed very Ingenuously, that he did sit upon the King, that he did sit in that Court, and so there is an Overt-Act proved; if nothing else, you ought to find him guilty of this Treason. There is further Evidence (though not any Evidence of his sitting the last Day of the Sentence,) you have had Three comparing Similitudes of Hands to prove that he did Sign that Sentence, that horrid Instrument, whereby the King was ordered to be put to Death; one of them having received Letters from *Ireland*, and others acquainted with his Hand, say, that it is like his Hand; he hath

so confessed the Likeness of his Hand, but he saith he doth not remember he Signed it. As to you of the Jury, there is no more to be considered, if any one of the Acts do appear true to you, that is sufficient to find him guilty, (though he were not guilty of all;) but that he did Compass and Imagine the King's Death is clear, in Sitting and Signing the Warrant; for the other, whether you shall find that he did Sentence the King, that must be left to you. Whatsoever it is, still it is the same; if any one be proved you ought to find him guilty of the Indictment, which is the Compassing and Imagining the King's Death. I think you need not stir from the Bar, for he hath confessed it.

The Jury went together, and after a little Consultation returned to their Places.

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Cl. Who shall say for you?

Jury. Our Foreman.

Cl. *John Jones*, Hold up thy Hand. Look upon the Prisoner at the Bar. How say ye, is he guilty, &c?

Foreman. Guilty.

Cl. Look to him Keeper.

Cl. You say the Prisoner at the Bar is guilty, &c. and so you say all.

Jury. Yes.

Cl. Set all that have been tried this Day to the Bar.

Lord Ch. Bar. *Mr. Scot*, I must speak a Word to you; you made Mention of the King's Proclamation for Pardon, and you did desire the Benefit of it. As I told you before, so now again, that it was not proper for us upon that Proclamation to give any Allowance by Way of Plea, because the Pardon ought to be under the Broad Seal; but God forbid but just and due Consideration should be had of it with Honour, so far as you are comprehended within it; though Judgment shall pass, no Warrant for Execution shall go out against you till Consideration be had, how far you are within the Compass of that Proclamation, and the like to you, *Mr. Scroop*.

Clerk. *Adrian Scroop*, Hold up thy Hand. Thou hast been Indicted of High-Treason, and hast thereof been found Guilty

ty : What canst thou say for thyself why Judgment should not pass for thee to Die according to Law ?

Scroop. *I do humbly submit to his Majesties Mercy.*

Cl. *John Carew*, Hold up thy Hand. Thou art in the like Condition with the former, what canst thou say ? &c.

Carew. *I commit my Cause unto the Lord.*

Cl. *Thomas Scot*, Hold up thy Hand. Thou art in the like Condition with the former, what canst thou say ? &c.

Scot. *I shall only say, I do only cast myself upon His Majesty, and pray Mercy.*

Cl. *John Jones*, Hold up thy Hand. Thou art in the like Condition with the former, what hast thou to say, &c.

Jones. *I pray his Majesties Clemency.*

Cl. *Gregory Clement*, Hold up thy Hand. Thou standest Indicted of High-Treason, and thereunto hast pleaded Guilty, what canst thou say ? &c.

Clem. *I pray Mercy from the King.*

L. Ch. Bar. You that are Prisoners at the Bar, ye see the Sentence of Death is to pass against you ; and for ought you know, or we know yet, may be nearer than you are aware : How soon it will be executed we know not ; when you have reflected upon your own Consciences, many of you could not chuse but look there, and see, as in a Glass, the Foulness of this horrid Offence : It is the *Murder of our most Gracious Sovereign King Charles the First of Blessed Memory* ; a Prince whom we (such of us as had the Honour personally to attend him) knew was of such Parts and Virtues, if he had been a Private Man more could not have been desired ; truly what he did as a King, his Clemency, how it appeared at first in this Prince's Time : If you look what Peace and Prosperity we enjoyed in his Days, we will not find it in other Kings Times ; you had not a Nobleman put to Death, save One, and that for an Offence which must not be named ; a Prince that had granted so much : You may remember what was granted before the Beginning of these War ; Grievances complained of, Star - Chamber, High-Commission Court, Ship-money, the *Claim of Stannery*, &c. all these were taken away : What Concessions he made after in the *Isle of Wight* ; how much he wooed and

courted the People for Peace. I urge this unto you only that you would lay it to your Hearts; that you would consider what it is to *Kill a King*, and to Kill such a King. If any of you shall say, that we had no Hand in the actual Murther of the King, remember that they that brought him to the Bar, were all one as if they had brought him to the Block; as St. *Paul* confessed, though he held but the Cloaths, he killed the Martyr *Stephen*. You are shortly to appear before God's Tribunal, and I beseech God Almighty that he will give you, and us all, those Hearts, that we may look into ourselves; no Fig-leaves will serve the Turn; whatsoever you have said now as Prisoners, or allowed to say for your own Preservation in Point of Fact; *notwithstanding* it will not serve before God Almighty: All Things are naked before him. Lay it to your Hearts; God Almighty, though you have committed these foul and horrid Sins, yet he can Pardon you, as he pardoned that Murther of *David*: I speak it to you that you may lay it to your Hearts; I am heartily sorry, in Respect you are Persons of great Civility, and (those that I know) of very good Parts; and this I must say, That you will consider with yourselves, if any of you have been led away, though it were with his own Conscience, if any of you did it, as you conceived in Conscience, remember that our Saviour saith, *the Time shall come when they will persecute you, and kill you, and think they do God good Service*. I have the Judgment of Charity, possibly some of you did it in this Kind, and this is less than doing it wilfully; others might do it by a mis-guided Conscience; there is a Spiritual Pride; Men may over-run themselves by their own Holiness, and they may go by pretended Revelations: Men may say I have prayed about such a Thing, I do not speak it with Reproach to any; if a Man that should commit a Robbery, or Murther, meerly because he will, and should come and say, I have prayed against it, and cannot understand it to be a Sin, as one in *Shropshire* did, and yet notwithstanding killed his own Father and Mother; try your own Spirits, you must not think that every Fancy and Imagination is Conscience; Men may have a strange Fancy and Presumption, and that they may call Conscience: Take heed, there is a Spiritual Pride;

Pride; the Devil doth many times appear like an Angel of Light, do not rest upon that Self-confidence: Examine your Hearts, consider the Fact by the Word of God; that is the Rule, the Law is to be applied to it, *Eccles. 8. Where the Word of a King is, there is Power; and who can say unto him, What dost thou?* That is to shew the Power of Kings in Scripture: Remember withal that of David in Psalm 51. that Penitential Psalm, when he had committed that horrid Sin against Uriah; remember what he said being a King, *Tibi soli peccavi, against thee only have I sinned*; truly it being in such a Case, I speak it as before God Almighty, according to my Duty and Conscience, I wish most heartily as to your Persons: I pray God to give you that Grace that you may seriously consider it, and lay it to Heart, and to have Mercy upon you, and to forgive you, and this is all that I have to say; and now not I, but the Sentence of the Law, the Judgment which I have to give against you, is this, *You Prisoners at the Bar, the Judgment of the Court is, and the Court doth award, that you be led back, &c.* and the Lord have Mercy on your Souls.

Clerk. Crier make Proclamation.

Crier. O Yes. &c. All manner of Persons, &c. Jurors and Witnesses, to appear to Morrow Morning at Seven of the Clock at this Place, so God save his Majesty.

Sessions-House, Old-Bailey. Octo. 14. 1660. the Court being Assembled, Proclamation was made.

Clerk of the Court. Set Cook, Peters, Hacker, and Axtel, to the Bar: They being brought, the Keeper was afterwards ordered to take back all, except Mr. Cook.

Cl. John Cook. hold up thy Hand, &c.

Jury. Sir J. Whitcomb, James Hawley, Jo. Nichol, of Henden, Tho. Nichol, E. Thorn, Edw. Wilford, Will. Gumbleton, Jo. Shelbury, Tho. Jenney, Tho. Willet, Sir H. Wroth, Richard Cheney, of the Jury called and sworn.

Mr. Cook. May it please your Lordship, I do not know any of these Persons, I beseech your Lordship, that in Regard the Safety of my Life depends upon the Indifferency of these Persons, that your Lordship may demand of the Sheriff to know whether

whether he hath not heard them say, or any of them, that they are preingaged; I hope they are not, and thereupon I have not challenged any.

L. Ch. Bar. Sir, the Officer reads their Names out of his Papers, I suppose, he doth not pick and chuse them; I would not have him; and I am sure he will not do you any Wrong in that Particular.

Cook. My Lord, I am satisfied.

Cl. If any Man can inform, &c.

Cl. J. Cook, Hold up thy Hand.

Cook. My Lords, I desire Pen, Ink and Paper.

L. Ch. Bar. Give it him.

Cl. J. C. Hold up thy Hand. You that are Sworn look upon the Prisoner; you shall understand, &c. (Here the Indictment was read as before.)

Mr. Sol. Gen. May it please your Lordships, and you Gentlemen that are Sworn of this Jury, the Prisoner at the Bar stands Indicted for High-Treason for Compassing and Imagining the Death of the late King of Blessed Memory: The Indictment sets forth, That he, together with others, did assemble at *Westminster-Hall*, and sets forth many other Particulars of Sitting, Sentencing, and of the consequent Death and Murder of the King. The Matter and Charge of the Indictment is, for Compassing and Imagining the Death of the King, the rest of the Circumstances of the Indictment are but alledged as Overt-acts to prove the Imagination, which only is the Treason. This Prisoner at the Bar stands here Indicted for this Treason of Compassing and Imagining the late King's Death. My Lord, his Part and Portion in this Matter will be different from those that have been Tried before you; they sat as Judges to Sentence the King, and he, my Lord, stood as a wicked Instrument of that Matter at the Bar, and there he doth with his own Hand subscribe and exhibit a Charge of High-Treason, a Scandalous Libel against our Sovereign, to that pretended Court to be read against him, as an Accusation in the Name of all the People of *England*; when he had done that, he makes large Discourses and Aggravations to prove (if it had been possible) Innocency it self to be Treason. When he had done, he would not suffer his

his Majesty to speak in his Defence, but still took him up, and said, that he did spin out Delays, and desired that the Charge might be taken as if he had confessed it: He pressed the Court that Judgment might be given against the King; he was the Man that did demand that wicked Judgment before the Court pronounced it; and he was the Man that did against his own Conscience, after he had acknowledged that he was a Wise and Gracious King, yet, says he, *That he must die, and Monarchy with him*; there in truth was the Treason and the Cause of that Fatal Blow that fell upon the King. This was his Part to carry on; how he did it as a wicked Counsellor we shall prove to you, and the Wages and Reward of the Iniquity that he did receive.

James Nutley Sworn.

Council. Pray tell the Circumstances of the Prisoner's Proceedings at *Westminster-Hall*, when he did exhibit a Charge against the King.

Mr. Nutley. My Lords, the first Day of bringing his Majesty to his Trial was *Saturday, Jan. 20. 1648.* Before they sat in publick, they that were of the Committee of that which they called the *High Court of Justice*, did meet in the *Painted Chamber*, which was in the Forenoon of that Day. Being there, I did observe that there was one Price a Scrivener that was writing of a Charge; I stood at a great distance and saw him write, and I saw this Gentleman, the Prisoner at the Bar, near thereabouts where it was writing, I think it was at the *Court of Wards*. This Charge afterwards (a Parchment Writing) I did see in the Hands of this Gentleman the Prisoner at the Bar. A very little after that they called their Names they did adjourn from the *Painted Chamber* into *Westminster-Hall*, the great Hall. The Method that they observed, the first thing was to call the Commissioners by Name in the Act; the pretended Act for trying the King was read; that is, when the Court was sat the Commissioners were called by their Names, and as I remember they stood up as their Names were called: The next thing was reading the Act for the trying of his late Majesty. After that was read, then this Gentleman, the Prisoner at the Bar, presented the Parchment Writing, which was called the

Impeachment

Impeachment, or Charge, against his Majesty: Mr. Bradshaw was then President of that Court, and so called Lord President; he commanded that the Prisoner should be sent for, saying, *Serjeant Dendy, send for your Prisoner*; thereupon the King was brought up as a Prisoner, and put within a Bar: And when the Court was silenced, and settled, this Gentleman, the Prisoner at the Bar, did deliver the Charge, the Impeachment to the Court, and it was read; the King was demanded to plead to it presently. Here I should first tell you, that upon the King's first coming in there was a kind of a Speech made by Mr. Bradshaw to the King in this Manner, I think I shall repeat the very Words, *Charles Stuart, King of England, the Commons of England, assembled in Parliament, taking Notice of the Effusion of Blood in the Land, which is fixed on you as the Author of it, and whereof you are guilty, have resolved to bring you to a Trial and Judgment, and for this Cause this Tribunal is erected*: There was little Reverence given to his Majesty then, which I was troubled at: He added this further, *that there was a Charge to be exhibited against him by the Solicitor-General*; I think this Gentleman was so called at that Time, and he called to him to exhibit the Charge; and this Gentleman, (the Prisoner at the Bar,) did deliver an Impeachment, a Parchment Writing, which was called a Charge against the King at that Time, which was received, and read against him.

Coun. Did you ever see the Charge (which was now shewn to Mr. Nutley?)

Mr. Nur. My Lords, I do believe that this is the very Charge, I am confident it is the same Writing; I have often seen him write, and by the Character of his Hand this is the same.

Council. Go on with your Story.

Mr. Nut. My Lords, immediately upon the Delivery of this Charge of Impeachment which was delivered in the King's Presence, after it was read the King was demanded to give an Answer to it; His Majesty desired to speak something before he did Answer to the pretended Impeachment, (for so His Majesty was pleased to call it,) he did use Words to this Purpose; saith he, I do wonder for what Cause you do convene me here before

before you : He looked about him, faith he, I see no Lords here, where are the Lords? Upon this Mr. *Bradshaw*, the President, for so he was called, did interrupt his Majesty, and told him, Sir, faith he, you must attend the Business of the Court; to that Purpose you are brought hither, and you must give a positive Answer to the Charge; faith the King, you will hear me to speak, I have something to say before I Answer; after much ado; he was permitted to go on in the Discourse he was in, so far as they pleased. His Majesty said, I was in the Isle of *Wight*, and there I was treated with by divers Honourable Persons, Lords and Commons, a Treaty of Peace between me and my People; the Treaty was so far proceeded, in that it was near a Perfection: Truly (faith he) I must needs say they treated with me honourably, and uprightly; and when the Business was come almost to an End, then (faith he) was I hurried away from them hither, I know not by what Authority; now I desire to know by what Authority I was called to this Place? That is the first Question I shall ask you before I Answer the Charge. It was told him by Mr. *Bradshaw*, the President, that the Authority that called him hither was a lawful Authority; he asked him what Authority it was the Second Time; it was answered him by the President, that it was the Authority of the Commons of *England*, Assembled in Parliament, which he affirmed then to be the Supreme Authority of this Nation; the King said, I do not acknowledge its Authority: Authority, if taken in the best Sense, it must be of Necessity understood to be lawful, therefore I cannot assent to that; I am under a Power, but not under an Authority; and there are many unlawful Powers, a Power that is on the Highway; I think I am under a Power, but not under an Authority; you cannot judge me by the Laws of the Land, nor the meanest Subject. I wonder you will take the Boldness to Impeach me, your lawful King. To this Purpose His Majesty was pleased to express himself at that Time, with more Words to that Purpose. The King went on to further Discourse concerning the Jurisdiction of the Court. *Bradshaw*, the President, was pleased to interrupt him, and told him several times, that he trifled out the Courts Time, and they ought not to indure to have their Jurisdiction so much as questioned.

Court. Pray go on.

Mr. Nutley. This Gentleman at the Bar I did hear him demand the King's Answer several times; a positive Answer was required of the King; the King often desired to be heard, and he interrupted him again and again, several times, and at length it was pray'd that the Charge that was exhibited against him might be taken *pro confesso*.

Court. By whom?

Nutley. By the Prisoner at the Bar, if so be that he would not Answer. This, my Lord, is the Substance of what I have to say against him.

Coun. Mr. Nutley, pray what Discourse have you had at any Time with the Prisoner at the Bar concerning this Impeachment?

Nutley. Truly, my Lord, I knew the Gentleman well, I was well acquainted with him, and for the Satisfaction of my own Conscience, (for I was very tender in the Business, and sorry he was engaged in it,) I went to him, and did desire him to desist; I had Discourse with him, (for I was then a young Student in the Temple, and had a little Knowledge in the Laws:) I desired him to consider the dangerous Consequences of such a Proceeding; I may say I did it with Tears in my Eyes, for I had a very good Respect to the Gentleman for his Profession Sake, being learned therein: Truly, my Lord, he did Answer me thus, *I acknowledge it is a very base Business, but they put it upon me; I cannot avoid it, you see they put it upon me.* I had some Discourse with him concerning the Oath of Allegiance; truly he was satisfied that this Oath was against the Business in Question; I saw he was troubled at it.

Coun. Can ye speak of the manner of calling for Judgment against the King?

Nutley. That (I have already answered to it) was several times done; the King was brought several times to the Bar, and at every Time he was brought he was pressed to Answer whether Guilty? Or Not Guilty?

Court. By whom?

Nutley. By the Solicitor then, the Prisoner now at the Bar. My Lord, I remember His Majesty was pleased when he saw he could not be heard to the Discourse that he did intend to make
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of the whole Business; saith the King, if you will needs press me to Answer, I must Demurr to your Jurisdiction: My Lord, the Answer that was given to that was this, *Mr. Bradshaw*, their then President did say, Sir, saith he, if you Demurr to the Jurisdiction of this Court, I must let you know that the Court doth over-rule your Demurrer; this was said, my Lord, and Judgment was pressed very often.

Court. By whom?

Nutley. By the Prisoner at the Bar.

Cook. My Lord, may I ask him a Question?

Court. Yes.

Cook. The first Question is, whether the Parchment was delivered by me unto the Court, or brought into the Court by *Mr. Broughton*, the Clerk.

Mr. Nutley. I do encline to believe, (my Lord,) that it was brought into the Court, and delivered by some Hand or other to the Prisoner at the Bar; I do believe it was, for I do remember it was written by one *Price*; I was told that was his Name; that may be true; I believe it was brought into the Court, and delivered to the Prisoner now at the Bar.

Council. But did he exhibit it?

Nutley. Yes, my Lords.

Cook. Did you see me set my Hand to that Parchment?

N. No, my Lords, but I believe it to be his Hand.

Cook. Another Question, whether *Mr. Nutley* did hear me say concerning the Opinions of those Gentlemen, what they intended to do in that Business?

Nut. My Lords, I do remember that I had often Conference with the Gentleman at the Bar.

I desired him to desist from the Business, considering the dangerous Consequences of it: Truly, my Lord, I do well remember that he did say he did hope they did not intend to take away the King's Life: Said I, if they go about any such Thing do you use your utmost Endeavour to preserve his Life; saith he, I did Labour to that Purpose, but they tell me they only intend to bring him to submit to the Parliament.

Cook. It is said that I demanded Judgment of his Life; *Mr. Nutley*, I demand of you whether I used the Words of Judgment against his Life, but only I demanded their Judgment.

Nut.

Nut. My Lords, for that I cannot remember possibly to a Syllable, but Judgment was demanded.

Court. By whom?

N. By this Person.

Cook. I said the Judgment of the Court, not against him, I meant Judgment for his Acquital.

Court. Did you ever hear him desire the Court that the Charge might be taken *pro confesso*?

N. That I have said, my Lord, it was urged by the Prisoner at the Bar against His Majesty, that if he would not plead to the Charge, that then the Matter charged in it might be taken *pro confesso*. But my Lord, if you please to give me leave to add this one Word more, my Lord, I did hear him say at that Time; he shewed me a Paper, that contained an Order of the Court, that did direct the very Words that he should use when he came to deliver the Charge; whether those Words were in the Order I do not know.

Cook. Whether was I not directed by those Gentlemen the very Words I should speak?

Court. We are satisfied in that; he saith by an Order that you shewed him, you were so directed. If you have any Thing more ask it him.

Mr. Farrington sworn.

Mr. Sol. Gen. Pray tell my Lords, and the Jury, what was the Carriage of the Prisoner at the Bar at *Westminster*, at the Place they called the High Court of Justice.

Far. My Lord, I was present about the 20th of *Jan.* 1648, at that which they called the High Court of Justice, and *Mr. Bradshaw* sat then as President. so much as I remember concerning the Prisoner at the Bar I shall acquaint your Lordship. This Gentleman at the Bar, after the reading of the Commission, and Directions by the President, to bring His Majesty (the Prisoner they called him) to the Bar; the King being brought, after Silence made, and some Speeches made by the President, this Gentleman, the Prisoner at the Bar, having then a Parchment in his Hand, the Substance of it was for levying War against the Kingdom, he prayed that it might be read, and accepted as a Charge, in Behalf of the good People of *England*. It was accordingly read, and afterwards being demanded to Answer, after His Majesty having given several Reasons as to the Jurisdiction of the Court Four Days, every Day the Prisoner

soner at the Bar demanded the Judgment of the Court. And if His Majesty would not Answer to the Charge it might be taken *pro confesso*.

Coun. Do you know his Hand if you see it?

Farring. I have not seen his Hand a long Time: Then the Impeachment was shewn to the Witness.

Far. Truly, Sir, this is like his Hand.

Coun. Do you believe it?

Far. It is very like it, I do not know positively.

Coun. Did you hear the Words *pro confesso*?

Far. Yes, my Lord, several times after the first Day.

Coun. Did he interrupt the King in his Discourse, as to say these Words, that the Charge might be taken *pro confesso*?

Far. I do remember one Day there was some Interruption between the King and him, the King laying his Cane upon his Shoulder, desiring him to forbear.

Cook. You cannot say that I interrupted his Majesty.

Far. I remember that the King laid his Cane upon your Shoulders.

Cook. Whether did I the first or the last Day demand Judgment, or that any Thing might be taken *pro confesso*?

Far. The first Day? No, but after the first Day he did several Days; you did the last Day.

Griffith Bodurdo, Esq; sworn.

Coun. Sir, you have heard the Question, give an Account to my Lord, and Gentlemen of the Jury, of the Carriage of the Prisoner at the Bar towards his Majesty during the Time of the Trial.

Mr. Bod. My Lord, I was all the Time that the King was brought there before the Court, as a Prisoner; I was present all the Day, having a Conveniency out of my House into a Gallery that was some part of it over that Court. I do remember that the Prisoner at the Bar (whom I never saw before that Time) did exhibit a Charge the first Day against the Prisoner at the Bar, which was the King, in these very Terms, *the Prisoner at the Bar*: The Charge I heard it read then, I have not seen it since; the Substance was this. That for levying War against the Parliament and People of *England*, and namely, at such and such a Place killing of the People of *England*, (I think *Naseby* and *Keinton* Field was named in it, and

and divers other Places were nam'd in the Charge,) and the Conclusion was, that he had done those Things as a Tyrant, Traitor, Murtherer, and a Publick and Implacable Enemy of the *Commonwealth*. But this Prisoner at the Bar did exhibit the Charge, and the King did then, as you have heard he did, plead to the Jurisdiction of the Court. The King would fain have been heard, but I think they did adjourn for that Time. The next Day he pleaded the same Thing; I remember the Answer that was several Times given; twice given by *Bradshaw* to the King thus, *That the Court did assert their own Jurisdiction*, the Second and Third Day, I do not remember any Day after the First, but that the Prisoner at the Bar did demand Judgment for the King's not Pleading, and did several Times make Complaints to the Court of the King's Delays; that he intended Delays, and nothing else.

Cook. Pray, my Lord, One Question, whether my Lord, before he heard me speak of demanding Judgment against the King, whether he did not hear Mr. *Bradshaw* several Times say that the Court own'd their Authority, and that the Matter would be taken *pro confesso*?

Mr. Bodurdo. I did hear the Prisoner at the Bar desire of the Court, that it might be so; and I heard the Prisoner tell the King that it must be so. *Joseph Herne* Sworn.

Coun. Mr. Herne, Tell my Lords what you know of the Prisoner's Carriage at the High Court of *Justice*, as they called it.

Mr. Herne. Upon *Saturday* the 20th of *Jan.* 1648. it was the First Day his Majesty was convened before them.

I could not come near the Court, only I saw him at a Distance; I heard nothing but the Acclamations of the People, crying out, *God save Your Majesty*; what was done in Court I know nothing of. On *Monday* I was there, and had a Convenience to see and hear what was acted; and so His Majesty being come to the Seat appointed for him, the Prisoner at the Bar being called upon by the then President *Bra.* he demanded of him what he had to ask of the Court. He was then talking with *Doriflaus*, and seem'd not to mind the Business of the Court. His Majesty sitting near, takes his Stick and thrusts the Prisoner at the Bar upon his Shoulder; and the Prisoner looking

looking back with a great deal of Indignation turned about : I did hear *Bradshaw* speaking to him in these Words, Mr. Sol. have you any Thing to demand of the Court ? Whereupon the Prisoner at the Bar did use these or the like Words ; May it please your Lordships, I have formerly in the Name of the Commons Assembled in Parliament, and the good People of *England*, exhibited a Charge of High-Treason, and other High Crimes, against *Charles Stewart*, the Prisoner at the Bar, flinging his Head back in this manner to him ; he had there further to require of the Court that he might be demanded to make positive Answer by Confession or Denial ; if not, that the Court would take it *pro Confesso*, and proceed according to Justice ; this was on the First Day I was in the Court. The President *Bradshaw* told his Majesty, that he heard what was craved in the Name of the Commons Assembled in Parliament, and the good People of *England*, against him, by the now Prisoner at the Bar. The King stood up, but *Bradshaw* prevented him in what he had to say, telling of him that the Court had given him Time to that Day to know when he would plead to the Charge. His Majesty proceeded to object against the Jurisdiction, and said he did Demur to the Jurisdiction of the Court ; upon which the President answered him, If you Demur to the Jurisdiction of the Court, you must know that the Court hath over-ruled your Demurrer ; and you must plead to your Charge, Guilty, or not Guilty : Upon that the King asked their Authority, and desired he might give Reasons against it ; he was denied it by the President ; the President at last was content to tell him, that though he was not satisfied with their Authority, they were, and he must ; but to satisfy him, he told him in short, they sat there by the Supream Authority of the Nation, the Commons Assembled in Parliament, by whom his Ancestors ever were, and to whom he was accountable ; then the King stood up, By your Favour shew me One President. *Bradshaw* sits down in an angry manner, Sir, saith he, we sit not here to answer your Questions, plead to your Charge, Guilty, or not Guilty : Clerk, do your Duty ; whereupon *Broughton* stood up, and asked what he had to say, whether Guilty, or not Guilty ? And President *Bradshaw* said, that if he would not plead they must

record his Contempt. His Majesty turned about to the People, and said, then remember that the King of *England* suffers, being not permitted to give his Reasons for the Liberty of the People; with that a great Shout came from the People, crying, *God save the King*; but there was an Awe upon them, that they could not exprels themselves as they would have done, I believe.

Coun. What did *Cook* say to the Judgment? Did you hear him prefs for Judgment?

Mr. H. Yes, I heard these Words from the Prisoner at the Bar, That if the K. would not plead, his Charge might be taken *pro Conf.* and that the Court might proceed according to Justice.

Cook. One Question more, Whether he often heard me speak those Words, *that it might be taken pro Confesso*, and to proceed according to Justice?

Mr. Hern. You desired he might be held to his Plea, Confession or Denial, that he might not be suffered to use any Words to the Jurisdiction of the Court.

Cook. Whether he heard the Charge read?

Hern. I did not hear the Charge read, I was not there the First Day. I heard you confess you had exhibited a Charge of High-Treason against the Prisoner at the Bar, which was then the King's Majesty.

Cook. Whether I did not in the Charge conclude, that all Proceedings might be according to Justice?

Court. Read the Title and last Article of that Charge, which was accordingly read, and follows *in hac Verba.*

The Title of the Charge.

The Charge of the Commons of England against Charles Stewart, K I N G of England, of High-Treason, and other Crimes exhibited to the High-Court of Justice.

The Last Clause in the Charge.

And the said *John Cook* by Protestation (saying on the behalf of the People of *England*, the Liberty of exhibiting at any Time

Time hereafter any other Charge against the said *Cha. Stewart*, and also of replying to the Answers which the said *Ch. Stewart* shall make to the Premises, or any of them, or any other Charge that shall be so exhibited, (doth for the said Treasons and Crimes on the Behalf of the said People of *England* Impeach the said *Charles Stewart* as a Tyrant, Traitor, Murderer, Publick and Implacable Enemy to the Commonwealth of *England*, and prayeth that the said *Charles Stewart*, King of *England*, may be put to answer all and every the Premises; that such Proceedings, Examinations, Trials, Sentences, and Judgment, may be hereupon had as shall be agreeable to Justice.

Court. Mr. Cook, will you have any Witnesses examined touching the Question you last asked?

Cook. No, be pleased to go on.

Mr. Baker Sworn.

Mr. Baker. My Lords, and Gentlemen of the Jury, I was at the *High-Court of Justice*, as they called it, the First, Second, and Third Days, not to trouble you with the Proceedings of *Bradshaw*, I will tell you what I observed of this Gentleman; I have the Notes that I took there, and pray that I may read them to help my Memory, which was granted, and then proceeded in this Manner; That Day, my Lord, Mr. Cook told the Court, that he charged the Prisoner at the Bar (meaning the KING) with Treason and High Misdemeanors, and desired that the Charge might be read; the Charge was this, That he had upheld a Tyrannical Government, &c. and for that Cause was adjudged to be a Tyrant, &c. and did then press that the Prisoner might give an Answer to that, and that very earnestly. The Second Day, my Lord, he told the Court that he did the last Day exhibit a Charge of High-Treason against the Prisoner at the Bar, (meaning the King,) and that he did desire he might make Answer to it; and he told them also, that instead of making an Answer to the Court, the King had delayed the Court, but desired the K. might make a positive Answer, or otherwise that it might be taken *pro Confesso*. The Third Day, my Lord, he came and told the Court as before, that the King had delayed them, and then he Charged him with the Highest Treasons and

Crimes that ever were acted upon the Theatre of *England*, and then pressed that Judgment might be given against him ; and another Expression was, that it was not so much he, but the Innocent and Precious Blood that was shed, that did cry for Judgment against the Prisoner at the Bar : This, my Lord, in Substance ; there were other Passages.

Cook. Whether before this Time he had not heard something of an Act or Order Proclaimed at *Westminster* ? Whether there was any other Word in Effect used in that Charge more than in the Proclamation ?

Mr. Baker. I did hear of the Proclamation and Charge, and the Substance of it, I have given an Account of it, and I did hear you press upon it very much ; the Proclamation, I heard of it, that it was made for the Summoning of the Court, but I did not hear the Proclamation made.

Cook. That that was called the Act of the Commons for Trying of the King.

Mr. Baker. I did hear of the Act, but did not take Notice of it.

Mr. George Masterfon Sworn.

Coun. Mr. Masterfon, pray inform my Lords and the Jury what you know touching the Carriage of the Prisoner at the Bar at the Trial of his late Majesty.

Mr. Masterfon. My Lords, and you Gentlemen of the Jury, I was present in that they called the High Court of Justice upon the 22d, 23d, and 27th Days of *January*, in the Year 1648. I shall wave those Circumstances which you have heard, and many of which I well remember, and what I heard likewise between the King, who was then a Prisoner, and the then President *Bradshaw* ; but concerning the Prisoner at the Bar, this I very well remember, that upon *Monday* I heard him say he had exhibited a Charge of High-Treason against the Prisoner, (then the *King*.) and demanded how that he might plead to his Charge ; I do very well remember that after some Passages between the King and the Court, the Prisoner at the Bar desired the King might plead to his Charge, or else it might be taken *pro Confesso* : I remember upon the last Day, the Day of that Fatal Sentence, I heard the Prisoner at the Bar demand in the Name of the Commons Assembled in Parliament

ament, and all the good People of *England*, Judgment upon the Prisoner at the Bar, pointing to the King; *this is all.*

Mr. *Burden* Sworn.

Council. Do you know who did examine the Witnesses against the King? And were you examined? And by whom?

Burden. By Judge *Cook*, for so he was called in *Ireland*.

Council. Did he examine you as a Witness against the King? Did he give you an Oath?

Burden. Yes, my Lord, and many others.

Cook. This is a New Thing, I never heard of this before; Where was it that I examined him? I had no Power.

Council. No, we know that, but you were Active.

Court. Where was it?

Cook. Whether there were not any others with me in the Room? And where it was?

Burden. It was at *Westminster-Hall*, within the High Court of Justice.

Cook. Who was there besides me?

Burden. I cannot tell; *Axtel*, he was there, and I am sure *Cook* was there.

Council. Mr. *Burden*, pray tell my Lords and the Jury what Questions you were examined upon, and what they tended to.

Burden. He examined me, and gave me my Oath, there was Eight or Nine of us, we had been in the King's Army in former Times; this Gentleman (*Col. Axtel* brought us in, Commanded us out of our Company, I was in his Company, and this Gentleman) himself gave us our Oaths, he asked us where we saw the King in Action? I did reply to him, and told him, I saw him in the Field with his Army; he asked me many other Questions that I could not tell him, he asked me, whether I did see the King at *Nottingham* set up his Standard? And I was never at *Nottingham* in my Life; these were the Questions.

Mr. *Starkey* Sworn.

Court. Pray inform my Lords and Gentlemen of the Jury what passed between you and the Prisoner at the Bar concerning the Trial of his late Majesty.

Mr. *Starkey.* My Lords, this Gentleman, now Prisoner, and myself, have been acquainted a great while, being of the

same Society of *Grays-Inn*; and truly, my Lord, I confess I owe all my Knowledge in the Laws to that Gentleman; when I came first he was accus'd for Debt, and was pleas'd to do me, and several other Gentlemen, now and then the Favour to reason the Law with us, and assist us in the Beginning of the Long Parliament; that is, to give you an Account of his being indebted, he did desire I would do my Endeavour to get his Protection. Near the Time of the King's Trial there was a Gentleman with myself, one *Samuel Palmer* of *Grays-Inn*, which frequented his Company, had several Nights the Opportunity of understanding the Affairs at *Westminster*, and truly he himself did seem to us to count that a very ridiculous Council. I remember what he said One Night, I think they are all Mad, which was within Two or Three Days before the King's Trial; and instanced how a Fellow cried out to the Lord *Fairfax*, that if he did not consent to the Proceedings he would kill Christ and him. After that I did not think he did go to this Council for Employment, but out of Curiosity: When the King came to Trial we heard that *Mr. Cook* was the Person that was Solicitor, and acted that Part that you have heard of; and that during that Trial, whether the Second or Third Day, I cannot say that certainly, *Mr. Cook* came to *Grays-Inn* that Evening about Ten or Eleven of the Clock at Night, only upon some particular Occasion, as he said; I being walking in the Court in the Walk before my Chamber with another Gentleman, I did see him pass out of a House to go back again; I thought it was he, called after him; *Mr. Cook*; said I, upon that he turned back and met me; I took him by the Hand, said I, I hear you are up to the Ears in this Business; no, saith he, *I am serving the People*; truly, said I, I believe there's a Thousand to One will not give you Thanks; said I, I hear you Charge the King for the Levying War against the Parliament, how can you rationally do this, when you have pull'd out the Parliament to make Way to his Trial? He answered me, *you will see strange Things, and you must wait upon God*. I did ask him, but first he said this of himself, said he, *he was as Gracious and Wise a Prince as any was in the World*; which made me reflect upon him again, and asked how he could press those Things as

I have heard? What Answer he made to that I cannot tell, I did by the Way inquire what he thought concerning the King, whether he must suffer or no? He told me *he must die, and Monarchy must die with him.*

Cook. Whether was this after or before the Sentence?

Mr. Starkey. It was before the Sentence; for it was either the Second or Third Trial; or rather in some interim of Time before the Sentence; for there was an Adjournment for a Day or Two; but I am sure it was before the Sentence.

Court. Mr. *Cook*, they have concluded their Evidence, plead for yourself what you think fitting.

Cook. My Lord, I have been a Prisoner Three Months, I humbly desire to acknowledge His Majesties and His Councils Favour, that I was not put into a *Jeremy's* Prison, but in the Tower, and not in Irons; I give your Lordships humble Thanks for that; and truly, considering the Nature of the Charge, had it been in some other Kingdom they would have served us as *John Baptist* in Prison; I thank you that I have a fair Trial with the *Judges* of the Law, who are upon their Oaths to do equal Right and Justice between our Sovereign Lord the King, and every Prisoner, concerning Matters of Life and Death; and likewise those Noble Lords, that though they are not put upon their Oaths, but upon their Honour, if they know any Law to preserve my Life I trust they will rather save than destroy. My Lords, I do therefore say as *Paul* said, my Plea is much of that Nature, *against the Law, and against Caesar, I hope I have not offended at all,* and so I have pleaded Not Guilty. The Learned Council have examined several Witnesses against me; and I humbly conceive that the Matter will rest in a very narrow Compass; the Substance of the Charge (so far as my Memory will serve) doth rest in these Three Things, the other being but Matter of Form. *That I, with others, should Propound, Consult, Contrive and Imagine, the Death of the late King. Secondly, That to the perfecting and bringing about this wicked and horrid Conspiracy, that I, with others, did assume a Power and Authority, (as I remember,) Power I am sure, then to Kill and Murder the King; and Thirdly, That there was a Person unknown that did cut off the King's Head, and that we were abet-*

ting, aiding, assisting, countenancing, and procuring the Person, (or Words to that Effect,) against the Form of the Statutes, and so forth. I have Twelve poor Words to offer for myself in this Business, wherein, if I do not answer every Thing that hath been particularly objected I hope you will give me leave afterwards to offer it. First, I humbly propound this, that if it was not made appear to your Lordships that I did ever propound, consult, advise, contrive, attempt, or any way plot or counsel the Death of His Majesty, then I hope I cannot be found guilty within the Statute of 25 *Edward* the Third; for the naked Truth Mr. *Nutley* hath in a great Part spoke to; I was appointed upon the Tenth of *January*. 1648, for to give my Advice concerning a Charge, there having been upon the Ninth a Proclamation for the Trial; and upon the Tenth, Mr. *Steel*, Dr. *Dorilaus*, and Mr. *Ask*, and myself, were appointed, and ordered to be of Council to draw up a Charge; here I have the Order attested by Mr. *Jessop*, and pray it may be read.

Court. They do admit the Thing that you were so assigned.

Cook. Then I humbly conceive that that cannot be said to be done maliciously, or advisedly, or with any wicked Intention in me, which I was required and commanded to do; Acting only within my Sphere and Element as a Counsellor, and no otherwise. The next Thing is this, my Lord, that by Law Words will not amount unto Treason; we usually say, that Words may declare an Heretick, but not a Traytor; there were some Statutes formerly 1 *Edw.* 6. where Words are made Treason, but they are all repealed by 1 *Maria*, that nothing shall be Treason but what is expressed in 25 *Edw.* 3. this Objection will seem to lye, that these were Words put in Writing, and that I humbly conceive to be the greatest Matter objected; to which I Answer, 1. Whether there be any full, certain, clear Proof, that that is my Hand to the Charge, I must leave to you; Two or Three Witnesses say they believe it, and that it is like my Hand; that I leave to you if that appear; yet (my Lord) that that is put in VVriting as done by another that is the Dictator, and does dictate unto me; I humbly conceive, that for any Man to write VVords, which in their own Nature

Nature may be Treasonable, if he doth but write them by the Command of another, by speaking them after another, taking them upon rebound, that is not Treason, because they do not discover a traiterous Heart ; those VVords of compassing the Death of the King, in the 25 *Edw.* 3. they are secret Imaginations in the Heart, and they must be manifest by some Overt-act ; that which was dictated (my Lord) unto me, that I had expressly prescribed me, what I should say, what VVords I should say. That I did not invent any Thing of mine own Head, of my own Conceit, and therefore cannot properly be said to be malicious. The next Thing that I crave Leave to offer is this, that the pure and plain demanding and praying of Justice, though Injustice be done upon it, cannot possibly be called Treason within the Statute, then I hope nothing that has been said against me will amount to Treason : For the VVords in the Natural, Grammatical, Plain, Genuine, and Legal Sence, will bear no other Construction, as I humbly conceive, but (that whereas those Gentlemen had his Majesty then in their Power a Prisoner) that it was prayed by me that they would do him Justice ; I do hope that it will appear that I did give *bonum & fidele Consilium*. It will appear, I hope, that some would have had a very voluminous and long Charge ; that I was utterly against it, as conceiving that it was not fit and requisite that any Thing should be put in ; at least I durst not invent one VVord myself, but what was expressed in the Act for Trial ; if your Lordships will not admit it an Act, you will an Order, and so it will bear me forth, at least to excuse me from Treason, because I kept myself to the VVords ; whereas in that it was said, that they should proceed according to the Merits of the Cause, I was against that, that I did not understand that ; but according to Justice, and that is but according to Law, because the Law is the Rule of Justice. I do humbly hope, (my Lord,) that if by Law, when VVords may be taken in a double Sence, they shall always have the more favourable Interpretation, much more when the VVords in the legal Sence will bear it ; when it is prayed they will proceed according to Justice, I hope it will not be inferred there was any Intention of doing Injustice, when Justice was required. And therefore, (my Lord,) the next
VVord

Word that I would offer is this, if, my Lord, in all Tragedies which are, as we call them, judicially or colourably, there are but these Four Actors, Accusers or Witnesses, the Jury, Judges, and Executioner; if I be none of these I cannot be Guilty of Treason. I hope I may safely say according to Law, that I had not a Hand at all in his Majesties Death. My Lord, the Court and Council, it is very true, they do aim at the same Thing; the Council *Requirendo Justitiam*, the other *Exequendo Justitiam*, the End being the same, to have Justice. If when Justice be demanded, and Injustice be done, what is that to the Council? We read 19th of *John* concerning *Pilate*, *Knowest thou not* (speaking to Christ) *that I have Power to crucifie thee, and have Power to release thee?* My Lord, I humbly answer this to that which seems to be the most material Part in the Indictment, That we did assume a Power; my Lords; I did not assume a Power, I hope it will not be said that the Council had any Power, *Eloquentia* in the Council, *Judicium* in the Judges, and *Veritas* in the Witnesses. 25th of *Acts*, *Tertullus*, that Eloquent Orator, accused *Paul*; *Paul* answered for himself, and it is said, *Festus being willing to do the Jews a Courtesie, he left Paul bound*; it was not the Council that left him bound. His Majesty was never a Prisoner to me, and I never laid any Hands upon him; if any Witnesses have spoke of any Irreverence, I must appeal to God in that I did not in the least manner carry myself undutifully to his Majesty, though One of the Witnesses was pleased to say that I said these Words, *That there is a Charge against the Prisoner at the Bar*; it was not said the Prisoner at the Bar, there was not One Disrespective Word from me. There is a Case in the Third Institutes of my Lord *Cook*, it is to this Purpose, That one willfully and knowingly forswore himself; the Case was put to inveigle the Court; and though the Court does Injustice upon a false Oath, it is not Injustice at all in the Witness, it is Perjury in him; if there can be no Injustice in a Witness, much less a Counsellor can be said to have his Hand in the Death of any, because he has no Power at all; this must needs follow, that if it shall be conceived to be Treason for a Counsellor to plead against his Majesty, then it will

will be Felony to plead against any Man that is condemned unjustly for Felony. The Counsellor is to make the best of his Client's Cause, then to leave it to the Court ; it is said, I should demand Judgment, I do not remember that, I leave it to you, but still to demand Justice. Counsellors they do engage in Business before they do rightly understand the true Matter of the Fact ; it is Part of a *Serjeant's* Oath, that so soon as he does discover the Falsity of the Cause, he should forsake the Cause. My Lord, by what Mr. *Nutley* hath said it appears, and I have many Witnesses in the Countrey, Three or Four in *Leicestershire*, would have spoken full to this, that (my Lord) there was not before the Sentence of the King (to the best of my Knowledge) a Word spoken by any that they did intend to put him to Death ; I say to my Knowledge ; and my Lord, when Judgment is demanded is it not Two-fold, of Acquittal and Condemnation ? If those that then were entrusted with the Power of Judicature, if they did not know any Law to proceed by to take away his Majesty, then I demanding their Judgment, it doth not appear to be my Judgment ; and I refer it to the Learned Council, that Council many Times at the Assizes and other Courts have been sorry that the Verdict hath been given for their Clients, when they have known the Right lay on the other Side, and so I might in this. The next Thing I humbly offer, is, that if in Right Reason, considering the Condition his Majesty was then in, the advising to draw up the Charge was rather to be looked upon as a Matter of Service than Disservice, then it cannot be called Treason ; it is very true, my Lord, that a very little small Overt-Act will amount to a Treason ; and my Lord, had this been in Times of Peace, and had his Majesty been no Prisoner, (now he was under the Power of an Army,) this had been great Treason ; but he being a Prisoner, not by my Means, (for I was no Sword-man,) what can a Man that knows himself Innocent, being a Prisoner, desire more than a Speedy Trial ? So that making the Trial more Speedy cannot be said to be done Traiterously. A Trial doth follow Imprisonment as naturally and necessarily as the Shadow doth the Body. If any Man shall desire and be instrumental in bringing him to a Trial which might acquit

quit, rather than condemn him, and so humbly pray Proceedings according to Justice, this will have, I hope, a better Name than Treason. I am much beholding to His Majesty and this Honourable Parliament for the penning of the Act of *Indempnity*, which I hope, my Lord, you will give me leave to take Notice of.

Court. Open as much as you will of it.

Cook. My Lords, the Words that I would make use of are in the Beginning, Treason, Murder, and other Felonies that are spoken of, they are said to be counselled, commanded, acted or done; in the Preamble, which is as the Key to open the Mind and Meaning of the Law-makers, it is said, that all Persons shall be pardoned for all, excepting such as shall be named, and in such manner as they shall be excepted, and then it comes, provided that this Act shall not extend to Pardon such and such Persons, and by Name I am one; and it is said, all which Persons, for their execrable Treason, in Sentencing to Death, or Signing the Instrument for the horrid Murther, or being Instrumental in taking away the Precious Life of our late Sovereign Lord, *Charles* the First, of Glorious Memory, are left to be proceeded against as Traytors to His late Majesty, according to the Laws of *England*, and are out of the said Act wholly excepted and foreprized. There is not any Thing offered against me upon the Two First great Words, which are Sentencing and Signing; that which I have to do to endeavour to clear myself is this, being Instrumental in taking away the Life of his said Majesty; first, I humbly offer this to the Juries Consideration, That where the Parliament doth begin to fix the Treasonable Part. there, I hope, and no otherwise, this Honourable Court will fix it: If it had been the Intention that Counsellors, Advisers, and such as spoke their Minds sometimes in the Business, (you know that was Epidemical,) many Words were spoken which cannot be justified; whether naturally it would not have followed, that all such Persons for their Counselling, Advising, or being Instrumental, are left to be proceeded against as Traytors, I hope you will take that into Consideration; concerning the Words, or being Instrumental, observe it is not said, or being any otherways Instrumental; but Sentencing, Signing, or being Instrumental; if therefore the

Word

Word Instrumental be not of a general comprehensive Nature; then all this Evidence which hath been given in against me, being before the Sentencing and Signing, will fall to the Ground; that this is the Legal, Genuine, and Grammatical Sense, and cannot be any otherwise than as Particular, as if it were the Sentencer, Signer, and Executioner; which if it had been so nothing of the Evidence would have reached me. My Argument is this, such a Use is to be made of an Act of Parliament, that no Word may be frustrate and insignificant; but if this Interpretation shall be put upon it, Sentencing, Signing, or being any Way Instrumental, then the Words Sentencing and Signing need not have been. If Instrumental will carry the Words Sentencing and Signing, then these Words will carry no Force at all; especially, my Lord, when there is no need of any Retrospect at all; if it be so, I know not how far it may look back; there is no Necessity of putting any comprehensive Generality upon this Word Instrumental, but that the plain natural Sense will be this, that those that did Sentence and Sign, and those that were Instrumental in taking away his Life, that is, those that did Abet and Comfort that Person unknown, or Justifie, or Countenance him, which is after the Sentencing, and not before, in the Legal Sense. Next I conceive, that a Counsellor cannot be said to do any Thing *vi & armis*.

It is said, that by Force and Arms I did Abet, &c. it is Rhetorical to say that Words may be as Swords, but Legal it is not, unless there be something *vi & armis*; in the Grammatical Sense Instrumental in taking away the King's Life; it is not said Instrumental in order to take away the King's Life, or Instrumental in advising to take away the King's Life, but Instrumental in taking away the King's Life. My Lord, the next Thing is, that there cannot be any Thing to be said to be done by me, first not *falso*, because in that Sense it must have the Operation of Mendacity; that there must be a Lie told in it; I did nothing but what I was required to do, to set down such and such Words, I did not invent nor contrive them, I heard nothing of it till the 10th Day of Jan. My Lord, for *malitiose*, that I did not any Thing maliciously, I hope it will appear in this; what I then spoke it was for my Fee; it may be called *avaritia*, but not *malitia*, for the Law will imply a Malice; but when there is

no other exprefs Ground or Reason why the Thing was done; but here was an exprefs Ground to ſpeak for my Fee, I hope the Jury will take that into Conſideration. Then Secondly, I was not Judicial in the Caſe, I was not Magiſterial as any Officer, but Miniſterial. As touching examining of Witneſſes, it is a great Miſtake, the Court had Power to give an Oath; I might be there, but I had no Power to give an Oath, but whether I might ask any Queſtion, I do not remember, but that I ſhould give an Oath, that is a Falſity; then, my Lord, for *Proditorie*, I hope there is nothing at all that appears to the Jury; ſo that there was no Malice nor Traiterous Intention in the Thing. There are ſome Matters of Law which I deſire your Lordſhips will give me Leave to ſpeak to, and that your Lordſhips will be of Council with me. I would offer ſomething concerning his Majeſties Gracious Declaration from *Breda* to the Parliament; I (was then in *Ireland*,) I did put in a Petition to the Honourable Commiſſioners before any Exception was, that I might have the Benefit of that Declaration; I did lay hold of it: My Lords, there are Two Things in that Declaration that I would offer. His Majeſty ſaith, that for the reſtoring of the King's Peers and People of the Kingdom to their juſt Rights and Liberties, he will grant a Free and General Pardon to all, excepting ſuch as ſhall be by Parliament excepted; and within Three or Four Lines after it is ſaid a Free Parliament; though I do not in the leaſt queſtion the Legality of this Parliament, yet, my Lords, to this particular Purpoſe, whether the Parliament that was to except ought not to be a Parliament that was to be called according to his Majeſties Writ, according to the Laws of the Kingdom, I humbly conceive it will bear that, though his Majeſty is pleas'd to confirm this, yet it is not ſuch a Parliament that was to except, that I offer to your Lordſhips. My Lords, that that I would humbly make Bold to put for myſelf, becauſe it is the Priviledge of one in my Condition, is this, There is, my Lords, many Lords, the Earl of *Effex*, the Earl of *Southampton*, and others, that were adjudged in the 44 of *Eliz.* 3. *Inſtitutes*, they did Traiterouſly and Maliciouſly conſpire to take her Majeſty Priſoner, and to remove her Counſellors from her, which were found Guilty, and ſuffered accordingly; had

the Reason is, That because thereby if it had been done, they had despoiled her Majesty of her Regal Government; and the Case is Instant in *Philip*, who was a Nominative King, that it was not Treason to have attempted any Thing against him. My Lords, his Majesty being a Prisoner without any Hand of mine, I giving Advice according to what was dictated to me to bring him to that Trial, whereby he might have been Acquitted, and so set at Liberty, I hope that will not be said as Instrumental. My Lords, I humbly shall offer but Two Words, 1. To the Honourable Court, then to the Jury, the Words of 25 E. 3. and so the Exposition of the Learned Judges have been from Time to Time, that there shall be no Semblable Treasons made by Presumptions or Strains of Wit, but those Treasons specified there: It is said if a Husband do kill his Wife, or a Wife kill her Husband, a Master should kill his Servant, or the Servant should kill his Master, that that shall be petty Treason; a Child did kill his Father, though that was looked upon as a great Sin, yet the Judges do not presume that to be Treason, because it was not in the very Words; this being an extraordinary Case, to write a Thing after another doth not appear that there was a Malicious Heart in him that did write. There hath been the Act of Parliament that doth call these Courts Tyrannical and Unlawful Courts; but, my Lords, a Tyrannical and Unlawful Court is a Court *de facto*, though not *de jure*; if a Court be not a Just and Lawful Court, it cannot be said but that it is a Court: We say a Thief is a True Man, though Morally he is not so; this was a Court, Officers attending on them; some said they had Authority; and therefore for one to come and act within this Sphere, not to act out of that, nor do any Thing but what he had a Prescript Form appointed him, I hope that will not be found to be within the Letter of the Law; I have been told, (how true I cannot tell,) that there have been some Votes in the Honourable Parliament, that those that did only council or advise, those were not to be looked upon as Traitors; I have been told so, that those that did only speak as Council for their Fee, who were not the Contrivers of it, the Parliament did not intend they should be left to be proceeded against.

Court.

Court. That Letter that was sent from the Commons to the King at *Breda*, they speak first of the Violation that was put upon the Parliament, and of the base horrid Murther of His late Majesty. It is said that the Parliament (I conceive they meant of the remaining Part) they were not guilty, but some few ambitious, bloody, guilty Persons, who contrived the same, and others misled by them.

Cook. The other Matter of Law is this, I say that I do hope that though that Order, which I was about to produce concerning my acting, that if it may not in a Legal Sense any way be said to be an Act of the Parliament and Commons, yet it may be said to be such an Order to bear out those that did Act according to it, because there was then no other Authority *de facto*, otherwise it were not lawful for any Man to exercise his Profession during such a Power. I hope Counsellors might then exercise their Profession as well as others. My Lord, though I should suffer myself in this Case, I should be loth the Honourable Profession of the Law should. I think I was in my Sphere, acting as a Counsellor. Now Gentlemen of the Jury, that which I have to say to you is an Evidence concerning Matter of Life; it must be so clear that every one that hears it may understand it. It is called an Evidence because it is evident; it is one Reason why Prisoners for their Lives are not allowed Council for Matter of Fact, because the Evidence is, and ought to be, so clear and plain that every one should be satisfied, both Jury and Standers-by; and it is a proper Word to say the Prisoner is convicted, that is as much as his Mouth is stopped; and therefore I say, truly as I hope I may speak it to you without Offence, as *Jeremy* in another Case, when some of the People would have had them put him to Death, *As for me, behold I am in your Hand, do with me as seemeth good and meet unto you, Jer. 26. ver. 14, 15.* faith he, *But know ye for certain, that if ye put me to Death ye shall surely bring innocent Blood upon yourselves.* I hope you will not willingly be guilty of any such Thing; I must leave it to your Consciences, whether you believe that I had an Hand in the King's Death, when I did write but only that which others did dictate unto me, and when I spoke only for my Fee; and this I would be bold to say, though the Argument is not so directly

directly confessed, that Humane Justice, (I do first say as this my Principle and Opinion is,) that as every Man ought to pay his moral Debts, so all political Debts; there is a Debt due to Humane Justice, so political, if the Lord should have suffered me to have been Drunk, and kill'd a Man, for which I ought to have died, instead of speaking for my self, I would have rather intreated the Jury to have found me Guilty, I think these Things ought to be answered political Debts; when I was in *Ireland*, and had Opportunity of going away, if I thought I had been Guilty I might have done it; my Name is put into his Majesties Proclamation. It is true, I was a Prisoner Three or Four Months before, so that I could not render myself, to what End should that Proclamation mention my Name? It was said I obscured myself, but I did not; Humane Justice doth never punish so much for Expiation as for Prevention; the Judgments of the Learned *Aquinas*, *Grotius*, and *Amesius*, and many others, that if a Man doth kill a Man, commit any Thing worthy of Death, though he doth repent never so much, yet that others may be deterred from committing such Acts, the Magistrate is bound to put him to Death. But where there is not such a Thing there it is different; though it is said the Land is defiled, that is, where there is Danger that the like may be committed again; now all Things are settled, there is no Danger at all; now there can never come such a Case as this again; I say, my Lord, what I acted I did as a Counsellor, I had no malicious Intention in it. Mr. *Nutley* bare Testimony so far, that I told him *there was not Intention of putting his Majesty to Death*; I only did say, that *I desired them to do Justice*; and I hope what was done was their Act, not mine, and so I leave myself to your Lordships.

Court. Silence commanded.

Mr. *Sol. G.* My Lords, this Gentleman who is the Prisoner at the Bar requires such an Evidence of the Fact as may be evident, he saith so evident as may be as clear as the Sun; I think that Evidence is not to seek; but if he must never be convicted till he be so far convinced as to be speechless, I believe we may stay long enough; nevertheless if he be willing (as he saith he is) to pay his Debts to political Justice, we shall quickly give him the total Sum. That which he hath said hath been like a

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Lawyer,

Lawyer, the best that his Case will bear, but withal it is a great Aggravation to his Crime, that he that knew the *Law* so well, should so much transgress it. He began, *Words do not make Treason*; he mistakes, his Charge is not for Words, Gentlemen, his Charge is for *Compassing and Imagining the Death of the King*, and the Evidence of that Charge is meeting in that Assembly, and the Part that he bore in that Assembly. And yet, my Lords, he will be much mistaken too, (under Favour, and with Submission to your Lordships Judgment, and those that hear him,) if they think that in all Cases it is a general Rule that Words are no Treason; for when a Man shall proceed to declare the Imagination of his Heart, as to exhort and perswade Men to effect that wicked Thing, *the killing of the King*, certainly there cannot be a greater Overt-Act than these Words, nor a clearer Evidence of such an Imagination, *for out of the abundance of the Heart the Mouth speaks*. My Lord, to say that the demanding of Justice is not Treason, though Injustice do follow, is a very weak Gloss upon a wicked Action. The Subject Matter was a Charge of *High-Treason against the King*, the Conclusion of the Charge was a *Protestation*, by which he saved to himself a Liberty to put in a new Charge, if that was not sufficient; upon the whole he desires, that the King, *as a Traytor*, may be brought to Justice. Judge you now, Gentlemen, upon the Nature of this Demand, whether this were such a Demand of Justice as might end in Acquital; whether he that presses that this Charge may be taken *pro Confesso*, did mean that when the Court had recorded it they should Acquit him when they had done. My Lords, to say there are Four Actors in this Case, the Witness or Accuser, the Judge, the Jury, and the Executioner, and that he is none of them, and therefore in this Case he cannot be a Traytor; still, my Lord, that is to beg the Question; for if he be one of them that did Assemble in the Place, and were any Instrument of that Assembly, he hath thereby given an Evidence of an Overt-act of his wicked Heart; and when all is done, this poor Gloss amounts but to this, *I am none of those Four Ranks, that is, there were others worse than myself, and therefore I am none at all*. My Lord, the Thing that he hath mainly insisted upon is the Act of Indemnity; my Lord, he doth observe that his Name is excepted in that

that Act; that he doth hope that it is so penn'd, as by the Favour of the Parliament it may reach his Case; and he hath argued very much upon it, and he speaks as if he did believe it himself. But surely there is no Colour for that Interpretation, that he should step out of this Proviso, by the very Act of *Indemnity*, that was made on Purpose to bring him in by Name; the VWords are, *Provided that this Act, nor any Thing therein contained, shall extend to Pardon, or give any Benefit to John Cook, &c.* all which Persons, for their execrable Treasons in Sentencing to Death, or Signing the Instrument for the horrid Murder, or being Instrumental in taking away the Precious Life of our late Sovereign Lord King Charles the First, of Glorious Memory, are left to be proceeded against as Traytors, &c. First, my Lord, this general and clear Answer, I conceive, is to be given, that the Prisoner at the Bar being by Name excepted out of the Act of *Indemnity*, by the *Proviso* mentioned in it, although the subsequent Lines that follow be the Reasons why the Parliament do except; yet if he be within the very VWords of the Exception, whether he be in the Reasons that moved them to that Exception, is not material, if he could distinguish that he was not Instrumental in that Sense, to which he labours to restrain this *Proviso*, he can but say this, the Parliament was mistaken in their Reason, but not in their Conclusion; but he is directly within the Exception, and the Reason of it too, for the VWord Instrumental goes as far as far can be, and he is properly and literally in the strict Notion of the VWord, an Instrument of the Death of the King: The King could never have been brought to Death, if not to the Bar; never had been Sentenced, if he had not been Impeached; that Impeachment could never have been taken *pro Confesso*, nor the Impeachment itself delivered, if he had not delivered the one, and pressed the other: He that brought the Ax from the Tower was not more Instrumental than he; and besides, a Lawyer, as he, of great Understanding, and of good Parts, he knows very well there are no Accessaries in Treason, but he that Acts any Part in so wicked a Conspiracy, let him begin at what End he will, he stands responsible for the utmost Consequence of it; and in Effect the very penning of this *Proviso* is an express Judgment of Parliament, that he was Instrumental, but that is not to be pressed.

The next Thing he doth insist upon is the Declaration of his Majesty, that he sent from *Breda*, which he saith he laid hold upon; here lyes the Weight of his Answer, The King writes his Letter to the Parliament now sitting, that he doth purpose, for the quieting of the Hearts of Men that may be in doubt, to pardon all Persons all Crimes of what Nature soever, either against himself or Royal Father, excepting those which shall be by Act of Parliament excepted; and, my Lord, he doth say, and modestly presses, that he doth conceive the meaning of that is to pardon all Persons what Crimes soever they have committed, except such as by a Free Parliament shall be excepted; a Legal Parliament, called by the Writ of the King, which this Parliament is not. To that I give these Answers; First, my Lord, I do say that this Letter of our Gracious Sovereign from *Breda* in itself undoubtedly is no Pardon in Law for Treason, that cannot be without the Broad-Seal. Next, a Pardon under the Great-Seal in such a Form of Words as this is would not be a Pardon for Treason, for that must not be pardoned by Implication, but by positive Words; so in the Case of Sir *Walter Raleigh*, a Commission directed to our Well-beloved Subject would not pardon the Treason of which he was condemned. In the next Place this Letter at the most is but a Pardon in Honour, which must always be taken according to the Meaning; and that the King's Honour may be for ever Sacred, I say this Letter doth no Way help the Prisoner at the Bar.

First. It is plain by the very Superscription of this Letter in which the Declaration was Inclos'd, that it is directed to the Speaker of our House of Commons in Parliament Assembled, which cannot possibly be expounded of any other Parliament than that which was then sitting, to whose Speaker it was written.

Secondly, The Letter itself says, we have left it to you to provide from Security and Indempnity; and again, if there be a Crying Sin for which the Nation may be involved in Infamy, we cannot doubt but you will be as solicitous to vindicate it as we can be. And then in this very Letter encloseth that Declaration upon the Penning of which the Prisoner so much relies: Now lay all together, and it is clear the Parliament,

ment; meant by the Declaration, must be the same Parliament which was meant by the Letter; and that was this very Parliament whom the King intended to trust, both with Indempnity, and with the Vindication of his Father's Death, and to be the Dispensers both of Mercy and Justice in this Particular. Another Thing is this, This very Parliament, as the Prisoner observes, they did go to the King according to his Gracious Letter, and in the Behalf of all the Good People of *England*, they did lay hold of the King's Mercy in his Letter and Declaration, and prayed that this Claim by their Speaker, in Behalf of all the rest of the Commons of *England*, might be Effectual to all Purposes, and for all Persons other than those that should be by themselves afterward accepted, according to their Requests, His Majesty accepts their Petition, and makes Proclamation, that his Pardon should extend to all but such as they should except: What can be more clear and evident, than that this is the Parliament which the King did mean to be the very Parliament to which the Letter should have Reference till the Act of Oblivion was passed again? The late Transactions of these Twelve Years past had involved so many Persons, that we could scarce find a Man but he had need of Mercy; nay, this very Parliament to which this Letter was written had need of Indempnity; and is it probable in the Nature of the Thing, or can it be understood by any Man, that the King writing to this Parliament, and offering them Pardon and Indempnity, should mean such a Pardon and Indempnity as a future Parliament to be called by his own Writ should be willing to afford them? VVhose Hearts would have been satisfied with so contingent a Security?

My Lords, upon the whole Matter, by what the King hath said in this Letter, and by what the Parliament hath done in pursuance thereof, and by what the King hath proclaimed, it is to my Understanding as clear as the Noon-day, that the Honour of the King is not concern'd at all in the Exemption of the Prisoner at the Bar; and for the Cases of my Lord of *Essex* and *Southampton*, which he hath cited, they make against him; they were condemned because they endeavoured to imprison the Queen, and to remove her Counsellors, of

which very Fact the Prisoner is in Law Guilty too; and then the Case of King *Philip*, the Husband of Queen *Mary*, makes nothing for him neither, unless he will speak out, and tell us plainly, that because by a former Violence the King was made a Prisoner, he became but like a Titular King, as K. *Philip*.

In the next Place he saith, my Case is out of the Law, I acted as a Counsellor in my own Particular for my Fee; it was *Avaritia*, but not *Malitia*, nor *Falso*, *Malitiose*, or *Proditorie*: But he must know, that no Man hath, or can have, a Lawful Calling to pursue the Life of his King; and the Law implies Malice; for *Malitiose* and *Proditorie* are not only Words of Course, but of Truth too, in this Case, else it were as much as to say, that no Council can be Guilty of High-Treason, than which nothing can be more absurd: My Lord, for that which he said last, (for I must omit some Things, and give him leave to take the Advantage of it,) to stand upon it, that the Place was a Court, such a one it was that he was not answerable for the Constitution of it; if it were not in a Legal Sence, it was such an Order as might bear him out, that is, with Modesty and good Manners to justify High-Treason; it is not with such Insolency as some others before him did it, but it amounts to that, That an Order of a few Persons that first made themselves a *Parliament*, and then made a Court of Justice, had Officers, and met together, and perfected so great a Treason; I say, that this Order to bear him out is impossible. He that is a Lawyer, he must account to the Laws for what he hath done; if the Authority were not Lawful, he cannot but know that this which he calls the *Parliament* was so far from a Legal Authority, that it was one Part of the Treason that he did assist such an Assembly.

Gentlemen of the Jury, this is your own Case, here is a Charge that is exhibited by the Prisoner at the Bar, as he saith, in the Name of all the People of *England*. Look to it, for you are some of them if you own it; then it may be true what he hath said; but I hope you meet here to tell this Nation, and all the World, that the People of *England* had no Hand in that Charge; do but consider how that this Prisoner at the Bar had hunted the Life of the *King*, how he did fish out and examine Evidence, whether the *King* set up his Standard at *Nottingham*, was

was at such a Place, and such a Place ; to what End is all this, but with Design of Blood ? Were these Things to be produced against the King, and then Judgment to be demanded that he may be saved ? Is it not plainly proved to you by Witnesses, how he did exhibit the Charge, press it, aggravate it, desired it might be taken *pro Confesso*, was afflicted with the Delays, how angry he was when he was interrupted ? Is it not proved to you, that he was at first against the Thing, and said, *It was a base Business* ? When he was engaged in it said, that he was a *Servant of the People of this Kingdom* ? What doth he do at last when the Thing had gone far ? He speaks that which is the only Truth which I have heard yet from him, *He must die, and Monarchy then must perish with him* ; from which Event, Good Lord deliver us.

Sir Edward Turner. My Lord, the Substance of the Defence that the Prisoner hath made at the Bar, with much Skill and Cunning, may be referred to Two Heads. The First to the Statute of the 25th of *Edward* the 3d, the Second to the late Act of Oblivion : For the First, my Lord, he saith, that his Fact is not comprized within that Statute ; saith he, I did never Conspire or Imagine the Death of the King, nor did believe that would be a Consequent of their Actings. It was expressly proved that himself did say that the King must Die, and Monarchy with him ; but, Gentlemen, though he had said true, that it had not been proved, or that he did not believe that would be a Consequent, yet, my Lord, I must tell you, that every Step of this Tragedy was Treason ; the Summoning themselves, that was Treason ; every Proceeding upon that was Treason ; the Summoning of their Meetings in the *Painted Chamber*, Coming into *Westminster-Hall*, every Person as Instrumental, those that came to act the least Part in that Tragedy, were every one Guilty of Treason ; what, saith he, I acted as a Counsellor for my Fee : It was that Fee that *Judas* had the 30 Pieces of Silver, that made him hang himself. He goes further, and tells you, there must be no Semblable Treasons, this is clear ; the Conspiring and Imagining the Death of the King, that's the Treason that is mentioned in the Act ; Treason by the Common Law ; though this be not named the killing

killing of the King; yet all these Proceedings are Demonstrations to you there was a Secret Imagination to kill him. Then to the Act of *Oblivion* his Argument is, That because the Act saith, that if they had Sentenced, Signed, or been Instrumental in the Death of the King, that they should be excepted; but it is not said, or *otherwise Instrumental*; that this therefore should refer to subsequent, not precedent Acts, that's a strange Exposition; take it Grammatically it hath the most large Construction, Instrumental, more large than if they had said or otherwise, for it doth comprehend every Thing: There having been so full an Answer already, I will be short; I will not meddle with his Civil Debts, but with his Political; if a Man kill another, though he do repent, the Magistrate must do Justice *in Terrorem*. Though he doth repent, (I hope in God he doth so,) the Magistrates, your Lordships, must do Justice *in Terrorem*; I desire that Justice may be done upon that Man. He said it was no Treason to demand Justice against the King, because he did but demand it; I hope he will think it no Unkindness in me to desire Judgment against him, because it is Just.

Mr. *Wadham Windbam*. As I understand the Prisoner at the Bar, the chief Argument which he shelters himself under was his Profession, which gives a Blast to all of us of the Long Robe; I will not mince his Arguments; saith he, here was a Court, I was appointed Solicitor; and saith he, for Men to practise before those that have not a proper Judicature, it is not Felony, Murder, or Treason, (I would not willingly mince his Argument,) and that I was appointed, and the Words dictated to me; and a Counsellor carrying himself within the Compass of his Profession is not Answerable; but if he will exceed his Bounds, his Profession is so far from sheltering him, that, as it has been opened, it is very much an Aggravation; it is the Duty of a Counsellor to give Counsel; if a Man shall come to me and ask Counsel, and I shall counsel him to kill a Man, am not I accessory to that Murder? Words by his Argument will not amount to Treason; if the Fact follows I am as Guilty as if I did the Fact; in Point of Treason it is all one as if I had done that very Act. If Mr. *Cook* did

did advise that Act, or was Instrumental, he is as much a Traytor as the Man in the Frock that did the Execution ; for his Profession, truly, my Lord, I do not think that a Counselor is always bound to know the Patent of him that sits as Judge, that will not be his Case; here was no ordinary Warrant of Law to carry on Justice: *Grotius* saith, in Case of Necessity for carrying on Justice? There may be many Things allowed: I pray where did Mr. Cook read of such a Court as a High Court of Justice; there was never such a High Court of Justice read of in the Law; then as this was a Mock Court, so under good Favour it was a Mock Jurisdiction. Was there any Law under Heaven to put the King to Death? Is it not out of the Compass of all Courts whatsoever to do it? And under good Favour, my Lord, this is but to shelter a Man's self under Colour of Justice to do the most Execrable Treason in the World; I have no more to say to you.

L. Ch. Bar. I would repeat the Evidence and your Answer to you, if you have any thing New speak to it.

Cook. This is New; it was said by one, that if there had been no Charge there had been no Sentence given in the Case; I say, that the Indictment or Charge is no Part of the Trial by the Statute of *Magna Charta*: The Peers of the Land shall be Tried by Peers, but are Indicted by the Country; I conceive by what they have said they do make me causal of the King's Death. It is said in the Indictment there was a Power; I say this, I did not assume any Power; it cannot be said, if Council be come in to an unlawful Power, that he takes the Power, but stands with Respect at the Bar. At Assizes Judgment passes, the Clerk of the Assizes he is not Instrumental in taking away Life; for that which Mr. Starkey should say, that I should say, *The King must Die and Monarchy with him*, I humbly beg that the Jury would take notice of what Mr. Nut. said, that I told him there was no Intention of taking away the King's Life; and besides, it is but a single Witness, I hope there must be Two Witnesses in Point of Law to Convict a Man of High Treason.

L. Ch. Bar. Mr. Cook, you said right but even now, that if there was any Thing in Matter of Law which the Court knows

knows of, which may be of Advantage to you, they are of Council to you, and so they ought to be.

Cook. I thank your Lordships.

L. Ch. Bar. I shall repeat the whole Evidence, and begin with that first; (we are upon our Oaths;) the Witnesses that are against you, I took Notice of them; you have had a great deal of Liberty, which you have made use of civilly; but, Sir, for the Fact, I think it is a great deal more full than as you have answered. First, The First Witness produced against you was Mr. *Nutley*, (I shall speak only the Material Parts that concern your Charge,) he swears expressly that he saw *Price* a Scrivener writing a Charge in the *Court of Wards*, that he saw his Charge in your Hands; he saw afterwards, when the King of Blessed Memory was brought as a Prisoner, that there you delivered the Charge in; there is more than Words, you delivered that Charge in, that alone is an Overt-act; then if there were nothing else in that Case, that a Man in a Paper should call the King Traitor, Tyrant, Murtherer, and Implacable Enemy, as there the Words are, and he deliver this Paper, and this be read, if this be not an Overt-act of Imagining and Compassing the King's Death, I do not know what an Overt-act is; and he gives further Evidence; if I mistake take free Liberty to interrupt me.

Cook. Sir, they were not my Words, but their Words that Commanded me.

L. Chief Baron. This I say, that this very Thing alone, such a Paper approved by you, delivering this Paper to an Assembly, and requiring it may be read, this is an Overt-act to prove the Imagination of your Heart for the Death of the King; the Reason is, if the King should be a Tyrant, a Traitor, &c. it stirs up Hatred in the People, and the Consequences of that Hatred is the Death of the Prince. The next Thing that Mr. *Nutley* said was this, he said that you demanded positively Judgment against him, against the Blessed King, then Prisoner at the Bar. I remember you said that you did demand Judgment, but that you did not demand Judgment against the King; take it so whether you did, or not, (though you shall find in some other Witnesses that I shall repeat that you said Judgment against the King,) the Consequence will be the same; who

who could you demand Judgment against but the King? He was the Prisoner; because he did demand a further Hearing by the *Parliament*, you urged that his Charge might be taken *pro Confesso*, then it must needs be Judgment against the King; it is effectively and implicitly the same. He went further, and that was, that being your Friend and Acquaintance, and acknowledging your Parts as a Lawyer, (which truly I do very much know myself, and do know this Gentleman to be a Man of very great Parts in his Profession,) he had familiar Acquaintance with you; he told you what a base Business it was, and you did yourself acknowledge it; said the Prisoner to Mr. *Nutley* himself, it is a base Business, but they put it upon me. He did discourse further to him of the Oaths of Allegiance and Supremacy, which he knew very well, no Man better; this Gentleman, he very ingenuously confessed it, saying, I confess it is so, they put me upon it, I cannot avoid it; but then excuses it, I am the Servant of the People: Afterwards he pressed the King to answer positively, whether Guilty, or not Guilty; the pressing of the King to answer, what was it in Effect but to hasten Judgment? And that was to hasten his Death; so that that is the Substance of Mr. *Nutley's* Testimony, that he pressed Judgment, Judgment was demanded by the Prisoner now at the Bar; it is not only demanded, but pressed, and all the Current of the Witnesses at several Days are to this Purpose; it is true, (that I may repeat the whole for you, and against you,) that this Gentleman, the Prisoner at the Bar, when Mr. *Nutley* did urge this to him, said, he hoped they did not intend to take away the King's Life; I verily believe they do not intend to take away the King's Life; I hope they do not. But, Mr. *Cook*, it is no Excuse to say you hope, or you believe, they will not, &c. How far it may be in such a Crime something in Extenuation *in Foro Cæli*, but not *in Foro Civili*; you opened it yourself, that if a Man should go about to take the King Prisoner it is Treason; the Law adjudg'd that to be Treason; when you knew they would condemn him as a Tyrant, Murderer, &c. you must easily believe what would follow such a Condemnation, truly Death; that is no Colour of Excuse *in Foro Civili*. *Farrington* swears to the same Purpose, that he saw you, having a Parchment in your Hands, delivering it in, and prayed

ed it might be read as a Charge of the People; you did not speak, I deliver this in as from those that deliver'd it to me; that was not in the Paper, that you said of yourself; my Brethren will tell you all this is an apparent Point of the Imagination of your Heart; at that Time he swears the same Thing, that you did desire it might be taken *pro Confesso*. Mr. *Bodurdo* is the Third, he swears the same Thing too, that you exhibited a Charge of High-Treason against the Prisoner then at the Bar, and tells you the Substance of it; he saith that all but the First Day you demanded Judgment for not pleading to the Charge; he adds, that you complained of the Delays; I am sure that was not dictated to you; that could not be thought that you should desire Judgment for the Prisoner: It is very true which you say for yourself in that, that you did not demand it first, till it was demanded by the Court; Mr. *Bodurdo* tells you, and so it was granted the First Day, that *Bradshaw* only said it, but afterwards that you always demanded it: The next was Mr. *Herne*, he swears the same Words again, that you did in the Name of the Commons Assembled in Parliament, and the People of *England*, exhibit a Charge, &c. These are your own Words; if you did exhibit a Charge against the King, to exhibit a Charge of High-Treason the very Thing followed; if it were so, there was Death, so certainly there cannot be a greater Expression of the Imagination of a Man's Heart than that is: It is true, you asked then a Question, and that was, whether that that you concluded was not that you desired them to proceed according to Justice? It is true, the Words of the Charge are so, but before you come to Conclusion you Charge him as a Traytor, Tyrant, &c. *Communis Hostis*; after you had given that Charge you demanded Justice; those that spit in his Face they demanded Justice; every one knew what belonged to that Justice: Then *Baker*, he swears positively that you did exhibit the Charge in this Manner; he said this, that you said, you had exhibited a Charge of High-Treason, &c. and that the King sought Delays; there is your insisting upon it; he says further that you said these Words, that you did desire Judgment should be given against him, and not so much you, as the Blood that had been shed that cried for Judgment; truly

truly whether that was a Judgment that you intended for Acquittal, that must be left to the Jury. You asked (because I will repeat it in order as my Memory will give me leave) whether there was any other Words in the Charge then was in the Proclamation? Mr. Cook, Whether there was any other Words, or no, that differed in the Proclamation, as it was a great Sin and foul Fact in the Proclamation, so it was as foul in the Charge. Master *Masterfon* swears the same too, he heard you say the Second Day you had delivered a Charge (the Day before) against the King, and that he had delayed his Answer; you desired he might plead guilty, or not guilty; the last Day, that you did in the Names of the Commons Assembled in Parliament, and the People of *England*, demand Judgment against the King; and then another swears those Words, Judgment against the Prisoner at the Bar, which was the King. *Burden* swears you Examined him as a Witness against the King, in what Place he was with the King; it seems he was in the King's Army; he swears you gave him an Oath; (it is Testimony fit to be believed;) but however, if you did not give the Oath, by what you say yourself you may be by, and asked him the Question. Master *Starkey*, he tells you, that during the Trial, and before the Sentence, that you, being an Old Acquaintance of his in *Grays Inn*, and speaking with him, he spake like a Friend to you *I hear you are up to the Ears in this Business*; and *whereas you talk of the People, there is a Thousand for one against it*; that you should tell him again *You will see strange Things, but you must wait upon God*; these Words of waiting upon God are Words of that Nature, People do use them now-a-days when they would do some horrid Impiety, which hath been the Sin of too many; it is but a Canting Language, that is the best Term I can give it: You told him then *He must Die*, this was before the Sentence; (that is to be observed, Gentlemen of the Jury.) you say you did not know of the Sentence, you said *He must Die, and Monarchy with him*; you must here know that some of those Persons that sat upon him said, the King was a Gracious and Wise King; and as Mr *Cook* did say, and they were the best Words they spoke, and I think he thinks so in his Conscience; but in Conclusion *He must Die, and Monarchy must Die with him*;

him ; others said, they did not hate King *Charles*, but they hated Monarchy and Government, but Monarchy was the Thing that they would Behead ; I think I have done with the Evidence that was given against you, the Indictment itself was read, the Overt-acts was the Meeting, Propounding, and Consulting about it. It appears he was in the Chamber about the Charge, that he did propound it, he delivered the Charge, and it appears withal, that he demanded Judgment, he desired the King might answer, or that it might be taken *pro Confesso* : These are Overt-acts to declare the Imagination of his Heart. The Answer of Mr. *Cook* I will repeat it as clearly as I can, because nothing shall go to the extenuating of the Fact but it shall be spoken. Mr. *Cook*, in your Answer, your Defence that you make, you set forth the Heads of this Indictment, and you set them forth very truly ; the Heads are the Aggravations of the Indictment, the Indictment was the Compassing and Imagining the Death of the King ; you said it was upon these Grounds, that you did Propound, Abet, and Consult the Death of the King ; that you with others did assume Power and Authority to kill the King, and that thereupon a Person unknown in a Frock did accordingly kill the King. You say to the first Part, if it did not appear that you did advise the Death of the King, that you were not guilty : For that, Sir, as I told you before, taking them either complexly or singly, if any of the Particulars reached to one of these Acts, it was enough, but it reaches to all : You required Judgment against the King as a Traytor, and that with a Reason, and certainly Death must follow : You say you were appointed to give your Advice ; you had a Proclamation first for Trial of the King ; you had the Order of *Jan. 10.* whereby you were appointed to give your Advice ; if it were so it will be no excuse at all ; the Proclamation gives you no Warrant at all ; he that obeys so wicked a Proclamation it will not save him ; it appears you were privy to this before the Proclamation ; if you were not at all, when such a thing as this is such a Proclamation and Act, and such a Manner of Trial, as I believe though you have read very much, you never heard of such a Thing in our Law, or Foreign Nations, that you thereupon should take upon you to be of Council against the King, it Aggravates the Fact : Other

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Men may be Impudent and Ignorant, but you that were a Learned Lawyer, your being of Council doth aggravate the Thing. You say, Secondly, By Law Words will not amount to Treason, for that I would not have that go for Law by no means, though it be not your Case; for you are not Indicted for Words, but Words are Treason, and Indictments are often for it; but the Difference is this, the Indictment is not for Words, but Compassing and Imagining the Death of the King; Words are Evidences of the Compassing and Imagining the King's Death; it is the greatest Evidence of the Imagination of the Heart; Words do not make a Treason, that is, if it be by Inference or Consequence, but reductively; but if it be immediately, I shall say to a Man, Go kill the King, by that which is an absolute, immediate, necessary Consequence, to say this is no Treason, I would not have that go for Law; your Case is not for Words, but for delivering a Charge, the Ground that you speak of; Words may make a Heretick, but not a Traitor; it was a witty Saying, but you have no sufficient Authority for it, these are Words put in Writing; we all know if a Man put his Words in Writing, if a Man speak Treasonable Words, and put them in Writing, they have been several Times adjudged Treason; and so in my Lord Cook's 3 *Institutes*, the Case of *Williams* of the *Temple*; there was a Book of Treason in his own Study of his making, and he was Indicted for it; Words put in Writing is an express Evidence of the Imagination of the Heart; you say it was dictated to you, but when Words are written in a Charge, and your Name to it, (which I had almost forgotten,) that's more than Words; the Witnesses swear the Likeness of your Hand, they do but swear the Likeness of your Hand; no Man can swear more, unless he was present and see it; but you owned the Charge, and there your Name is; that besides the Two Witnesses there is your own Actions to prove it. When Two Witnesses shall swear it is like your Hand, and you own that Charge, I must leave it to the Jury: You say you did this after Command, the Words were dictated to you, the Words were *conceptis Verbis*, appointed and ordered by the Court, but the pressing was yours; he stands upon Delays, let it be taken *pro Confesso*, demanding Judgment; these were

were your Words ; another Man may dictate a Thing, but you are not forced to speak it ; you urged it, owned it ; you demanded not in the Name of the Court, but in the Name of all the People of *England* ; you say further, that your demanding Justice is not within the Statute ; as I said before, what can be the Effect of demanding Justice, but that the King should Die upon those Premises ? You say farther, that it was in behoof of the King, as you would urge it ; to do the King a Courtesie, in asking the King might have Justice ; but you did not Name what Justice it was ; but you did him a Courtesie ; truly the King was but a little beholden to you for that Request ; all the World knows what that demanding of Justice was, it was to have the King's Head cut off ; you went as far as you could ; it ended with you when you demanded Justice ; that is as far as you could you cut off the Head. *S. Paul*, when the Witnesses laid down the Cloaths at his Feet, he said, *I killed Stephen the Martyr*. You say further, that in all Tragedies the Accuser or Witness, the Jury, the Judge, and Executioner, are the only Persons ; and you are none of these ; you are only of Council ; if Justice was not done, what was it to you ? You said you did not assume a Power, there was only Eloquence required in the Council ; it hath been truly said, that this is a great Aggravation to be of Council against the King ; you said his Majesty was then a Prisoner and accused ; Council cannot be heard against the King ; you undertake to be Council against the King in his own Person, and in the highest Crime ; if the Council at the Bar in behalf of his Client should speak Treason, he went beyond his Sphere ; but you did not only speak, but acted, Treason ; you said you used not a disrespectful Word to the King ; truly for that you hear what the Witnesses have said ; you pressed upon him ; you called it a Delay ; you termed him not the King, but the Prisoner at the Bar, at every Word ; you say you did not assume an Authority, it is an Assumption of Authority, if you countenance and allow of their Authority ; you say you do not remember you demanded Judgment against the King ; that is fully proved against you ; you yourself asked the question ; whether you did say against the King he did not remember ;

remember; but others positively, that you demanded Judgment against the King and Prisoner at the Bar; you said that before Sentence there was not an Intention to put the King to Death, to that Mr. Starkey swears that you expressly said, the King must die, and Monatchy with him, and this before the Sentence: Whereas you say this is but One Witness, that there is to be in Treason Two Witnesses; but that there should be Two Witnesses to every Particular that is an Evidence of the Fact, that is not Law; if to one Particular that is an Evidence there be one Witness, another to another, here are Two Witnesses within the Meaning of the Statute; Two Witnesses to the Indictment Compassing and Imagining the Death of the King, being accompanied with other Circumstances, this One Witness if you believe him, is as good as Twenty Witnesses, because other Overt-acts are expressly proved by several Witnesses: You say next, for the drawing of the Charge, in right Reason it ought to be counted for the Service of the King: First you do acknowledge, and truly very ingenuously, that in the Time of Peace to bring him to the Bar, not being a Prisoner, is Treason, (you say it,) according to the Law, and that you delivered the Charge for the accelerating of the Charge; and that it was not done by you traiterously, you say the King was a Prisoner before; and you say what Hands he was in, in the Hands of Men of Power and Violence; it had been your Duty to have delayed it, not accelerated it, that there might have been some Means of Prevention of that Bloody Act that followed; if you knew that to be Treason to make him a Prisoner, Subjects do not use to make Kings Prisoners, but Death follows. You urge in the next Place the Act of Indemnity, and that you are not excepted, for that you have made as much of it as the Matter will bear; yet you must consider, First, as a Rule in Law, that where they are General Words, when they come to be explained by the Particulars, you shall not include them within the General: Mark the very Words, they are these, *Provided that this Act, nor any Thing therein contained, shall extend to Pardon, Discharge, or give any other Benefits whatsoever unto such, and such, (among whom you are named,) nor any of them, nor those Two Persons, or either of them, who being*

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disguised

*disguised by Frocks, and Vizards, did appear upon the Scaffold erected before Whitehall, upon the Thirtieth of January 1648. All which Persons, these are the Words. First, It shall not extend, to you; then it comes, All which Persons for their execrable Treason in sentencing to Death, or signing the Instrument for the horrid Murther, or being Instrumental in taking away the Precious Life of our late Sovereign Lord CHARLES the First of Glorious Memory, are left to be proceeded against as Traytors to His late Majesty according to the Laws of England, and are out of this present Act wholly excepted and foreprized. First, as I told you before, and as it was very well said by Master Solicitor, admitting the Reason had been mistaken, and that you had not been comprehended in the Reason, you are excepted out of the Body, provided it shall not extend, &c. Many times Laws do make Recitals, which in themselves are sometimes false in Point of Fact, that which is the Law is Positive Words, the other Words are for the Reason; excepting all which, that is, Master Cook, which Persons are excepted not for Doing of it, but for his execrable Crimes in being Instrumental. It is clear without that, if it were not so, we say when a Sentence is, or such a one, or such a one, the Third Or makes all disjunctive: Here are Three Or's, first in sentencing to Death, or signing the Instrument, then comes this, or being Instrumental in taking away the Precious Life of our late Sovereign, &c. this Or doth clearly exclude the other Two, or Instrumental not only in Point of Death; but farther, being neither a Sentencer, Signer, or being Instrumental in taking away the King's Life; that is, being any way Instrumental. Truly, whether it be not Instrumental to exhibit a Charge against him, or complain of his Delays, to ask Justice against him in the Name of the People, to do all this, and desire that the Charge might be taken *pro Confesso*, if this be not Instrumental, I know nothing else Sentencing and Signing: Some signed the Sentence, some the Instrument for Death: The next degree of being Instrumental, the highest degree of that, is to Accuse him, to deliver in the Charge against him in the Name of the People, do it again and again, be angry at the Delays. The next Thing is this, that you did not do this*

falso

falso or *malitiose*, but for your Fee; and that though there might be *avaritia*, there was not *malitia* in it; it was done by your Profession; you were not Magisterial in it; you thought the Consequences that did follow, would not follow. If a Man does but intend to beat a Man, and he die upon it, you know in Law it is all one: You must understand there is a Malice in the Law; if a Man beat One in the Streets, and kill him, though not maliciously in him, but it is so in Law. That you desire to have the Benefit of the King's Declaration; that you did put in your Petition proving the same; that you were a Prisoner before; that the Commons in behalf of themselves and the People of *England*, they craved the Benefit of it, which was granted, excepting such as should be by Parliament excepted; and that the King should mention a Free Parliament; for this, it hath been fully answered to you, and clearly by Mr. *Solicitor*, that you are not at all concerned in the King's Declaration at *Breda*. For First, it is nothing in Law, it binds in Honour; and we have given the same Directions Yesterday upon the like Occasion, that is, that the King's Declaration binds him in Honour and in Conscience, but it does not bind him in Point of Law, unless there were a Pardon granted by the Broad Seal; the Thing is cleared to you what Parliament the King meant by it; they were sitting at that Time, had acknowledged their Duty and Allegiance to their King; they went *ad ultimum potentiae* for a Free and Absolute Parliament, whilst the King was absent, though the King was away; yet notwithstanding the King declared whom he meant; he directed one of those Declarations to our Speaker of the House of Commons, and another to the Speaker of our Peers; in this Case it was *loquendum ut vulgus*; it was owned by him as having the Name of a Parliament it was done with great Wisdom and Prudence, and so as it could be no otherwise; they that were Loyal Subjects; acting in the King's Absence, he consenting to it, the King owning that Authority, so he was obliged in Honour no further than his own Meaning and Words; but there is another Clause in the Act excludes all these Persons. The next Thing is this, you say the Statute of 25 *Edward* 3. and

it is very true, you say if it be any Semblable Treason we were not to judge upon that, unless they were the Treasons in the Act; and it is most true; now you would urge but this, that this is but a Semblable Treason; but you are Indicted for the Compassing and Imagining the Death of the King: If these Acts did not tend to the Compassing and Imagining the King's Death, I know not what does; I am satisfied you are convicted in your Conscience. The next Thing (for you have said as much as any Man can in such a Cause, it is Pity you have not a better,) you say, though it was a Tyrannical Court, as it is called, but such a Court it was, and there were Officers you say, it had *figuram judicii*, that aggravates the Fact to you, to your Profession. There is a difference between a standing Court, and that which is but named to be a Court; this was but One of a Day or Two's growth before, and you know by whom; by some that pretended to be only the Commons; your Knowledge can tell you that there was never an Act made by the Commons assembled in Parliament alone; and you may find it in my Lord Cook, that an Act by the Lords and Commons alone was naught, as appeared by the Records; Sir James Ormond was Attainted of Treason; the Act was a private Act, by the King and Commons alone, the Lords were forgot; when the Judges came to try it, it was void, and another in Henry the 6th's Time; you know this was no Court at all; you know by a Printed Authority, that where a settled Court, a true Court, if that Court meddle with that which is not in their Cognizance, it is purely void; the Minister that obeys them is punishable; if it be Treasonable Matter, it is Treason; if Murder, it is Murder: So in the Case of *Marshalsea*, and in the *Common-Pleas*, if a Man shall begin an Appeal of Death which is of a Criminal Nature, and ought to be in the *King's-Bench*, if they proceed in it it is void; if this Court should condemn the Party convicted, and he be executed, it is Murder in the Executioner; the Court had no Power over such Things; you speak of a Court. First, it was not a Court: Secondly, no Court whatsoever could have any Power over a King in a coercive Way, as to his Person. The last Thing that you have said for yourself is this, that

that admitting there was nothing to be construed of an Act or an Order, yet there was a difference; it was an Act *de facto* that you urged rightly upon the Statute of 11 Hen. 7. which was denied to some, God forbid it should be denied you; if a Man serve the King in the War, he shall not be punished, let the Fact be what it will. King Henry the 7th took Care for him that was King *de facto*, that his Subjects might be encouraged to follow him, to preserve them, whatever the Event of the King was: Mr. Cook you say, to have the Equity of that Act, that here was an Authority *de facto*; these Persons had gotten the Supream Power, and therefore what you did under them you do desire the Equity of that Act; for that clearly the Intent and Meaning of that Act is against you, it was to preserve the King *de facto*, how much more to preserve the King *de jure*; he was owned by these Men, and you, as King; you Charged him as King, and he was Sentenced as King. That that King Henry the 7th did was to take Care of the King *de facto* against the King *de jure*; it was for a King and Kingly Government, it was not for an Antimonarchical Government; you proceeded against your own King, and as your King, called him in your Charge Charles Stewart King of England. I think there is no Colour you should have any Benefit of the Letter, or of the Equity of the Act. They had not all the Authority at that Time, they were a few of the People that did it, they had some Part of the Army with them; the Lords were not dissolved then when they had adjourned some Time, they did sit afterwards, so that all the Particulars you alledge are against you. The last Thing was this, you say, that it having pleased God to restore the King, Judgment should be given for Example for Terrour to others, that this could not be drawn into Example again; why? Because by the Blessing of God Peace was restored; no Probability that if your Life was spared, that it would be drawn again into Example, this is the weakest Thing you have urged; you must know the Reason: There are Two Things, there is the Punishment and Example; Punishment goes to the Prisoner, but Example to the Documents of all others; God knows what such Things may be in After-Ages, if there should be Impunity for them; it would rather make Men Impudent and Confident afterwards: If you

have any more to say I will hear you, if not I must conclude to the Jury: You hear the Evidence is clear for Compassing and Imagining the Death of the King; you have heard what he has said, and what he hath done; he has within, and examined Witnesses against the King, that he was by at the drawing of the Charge where it was drawn; you hear he exhibited this Charge in the Name of the Commons Assembled in Parliament, and the good People of *England*; and what this Charge is; it is High-Treason, and other High Misdemeanors; you find that he does complain of Delays, does again and again speak of this Charge, desire it may be taken *pro Confesso*; in the close of all, it was not so much he as Innocent Blood that demanded Justice; this was more than was dictated to him. You have heard the Witnesses, he was perswaded to forbear; acknowledged the King to be a Gracious and Wise King; the Oaths alledged against him, and you have heard his Excuse; I have nothing more to say; I shall be very willing to hear you further; I have not absolutely directed the Jury.

Cook. I do humbly acknowledge your Patience in hearing me, and that your Lordships have truly and justly stated both Proofs and my Answer. If your Lordships are pleased to lay aside these Acts, or Orders, or Authority, whereby I did at that Time truly, conscientiously act, and did think that it would bear me out, if you lay aside that, and look upon it as so many Men got together without Authority, and as well those that were Instrumental, though not Sentencers or Signers, and that Clause in the Act, I confess I humbly make bold to say I have not received Satisfaction in my Judgment, those very Words of *not so much I as the Innocent Blood cries for Justice* were dictated to me; there was nothing at all left to me, because his Majesty did not plead; there was no Trial; that which I did was according to the best, though it may be according to the weakest, Part of my Judgment: I have no New Matter.

L. Ch. Bar. You have said no New Matter, unless it be worse than before, for now you warrant that Authority.

Cook. Do not mistake me, (my Lord,) I mean so far as to excuse me in the Point of High-Treason.

L. C. B. We delivered our Opinions as to that formerly ; we were of Opinion, that the acting by Colour of that pretended Authority was so far from any Extenuation, that it was an Aggravation of the Thing; the meeting by that Authority was Treason, and in them that acted under them, and approving of it, the making of that traiterous pretended Act, making the Proclamation, sitting upon it, they were all so many Treasons; that was the Reason why that was urged against you, assuming upon you the Power, that was, you approving of their Power by acting under them, so that there is nothing more to be said.

Gentlemen of the Jury, You have heard the Indictment was for Compassing and Imagining the Death of the King; you have heard the several Overt-acts repeated, and whether these are guilty of Treason to deliver in a Charge against the King, such a One as that was in these Words, as against a Traitor, Tyrant, Murderer, and Implacable Enemy to the Commonwealth; in these very Words to desire Judgment against the Prisoner (then the King) at the Bar, angry at Delays, to desire that the Charge might be taken *pro Confesso*, to have it expressly, again and again to demand Judgment, if these be not Overt-acts of Compassing and Imagining the Death of the King, and that which hath been said by the Witnesses, it must be left to you: I think you need not go from the Bar. *Jury went together. Silence is Commanded.*

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Clerk. Who shall speak for you?

Jury. The Foreman.

Clerk. *John Cook,* Hold up thy Hand. Look upon the Prisoner at the Bar, how say you, is he Guilty of the Treason in Manner and Form as he stands Indicted? Or not Guilty?

Foreman. Guilty.

Clerk. Look to him Keeper.

Clerk. What Goods and Chattels?

Jury. None that we know of.

*The TRIAL of Hugh Peters, the same Thirteenth of
October, and at the same B A R.*

Clerk of the Crown. **S**ET Hugh Peters to the Bar; he was brought accordingly.

H. P. Hold up thy Hand; thou standest Indicted, &c. if you will challenge any of the Jury you must challenge them when they come to the Book, before they are Sworn.

L. Ch. Bar. Mr. Peters, you may challenge to the Number of 35 peremptorily, but beyond that you cannot, without good Cause shewn; and you may have Pen, Ink, and Paper.

Peters. My Lord, I shall challenge none.

Jury Sworn 12, Sir Fer. Whitch. James Hally, Christ. Abdy, Nich. Rainton, Rich. Cheyney, Jo. Smith, Rich. Abel, G. Terry, Char. Pickern, Jo. Nichol, Fran. Dorrington, Anthony Hall.

Cler. Hugh Peters, Hold up thy Hand. Look on the Prisoner you that are Sworn, &c.

Sir Ed. Turner to the Jury. You have often heard repeated to you that the Substantial Part of the Charge is the Compassing and Imagining the Death of the King, and all the rest will be but Evidence to prove that Imagination against the Prisoner at the Bar, whom we will prove to be a Principal Actor in this sad Tragedy, and next to him whom God hath taken away, and reserved to his own Judgment; and we shall endeavour to prove, that he was a Chief Conspirator with Cromwel at several Times, and in several Places; and that it was designed by them: VVe shall prove that he was the Principal Person to procure the Soldiery to cry out, Justice, Justice, or assist or desire those for the taking away the Life of the King. He did make use of his Profession, wherein he should have been the Minister of Peace, to make himself a Trumpeter of VVar, of Treason and Sedition, in the Kingdom: He preached many Sermons to the Soldiery, in direct Terms for taking away the King, comparing the King to Barabbas: He was Instrumental when the Proclamation for the High Court of Justice (as they called it) was proclaimed, directing where it should be proclaimed, and in what Place. VVhen the King was brought upon the Stage, that

that Mock-work, he was the Person that stirred up the Soldiery below to cry for Justice; we shall shew you as he preached at several Times upon several Occasions, still he was in the Pulpit to promote this Business; the next Day after he was brought to Trial he commends it; you shall hear all out of the Mouth of the Prisoner, therefore I say no more; call the Witnesses.

Dr. William Young Sworn.

Council. Tell my Lords and Jury what the Prisoner at the Bar has declared to you concerning the Contrivance of bringing the King to Trial.

Dr. Young. My Lords and Gentlemen of the Jury, It was near about (and that the Prisoner my remember) the Month of *July 1648*, since we came first acquainted, when he went over to *Ireland*; it was about the Siege of *Pembroke Castle*; but afterwards in the Year *1649* we renewed our Acquaintance; he went over into *Ireland* with that Usurper, the late Protector, as he was called, after the Town of *Wexford* was taken; coming over he fell Sick of the Flux, and said he received it by Infection, praying over Captain *Horton*: Coming into *Milford*, that Captain sends a Summons to me to come on Board, that was to fetch this Prisoner at the Bar, who was Sick. I found him there grovelling upon the Deck, and Sick he was indeed; with much Difficulty we got him on Shore; within a very few Days (to the best of my Remembrance Five Days) I perfected his Cure: We became very Familiar; I observed in him that he had some Secret Thoughts that I could not well discover, neither well understand; whereupon I thought it might tend to my Security that I should so much sympathize with him, to get within him to know his Intentions. After some Weeks, (for he continued with me Ten Weeks, or near thereabouts, some few Days rather over than under,) we grew so Familiar, that at last I found he began to enlarge his Heart to me. Many Times I should hear him rail most insufferably against the Blood Royal, not only against our Martyred King, but against his Royal Offspring; still as we continued our Acquaintance, he became more and more open to me; so we would sit up discoursing (till about Twelve or One of the Clock at Night very often) about these unhappy Wars late in *England*.

land. At last, my Lord, I found him that he began to tell me how he came into *England*, and upon what Account he came out of *New-England*. I shall desire that in regard his Discourses were various, that I may deliver them orderly; they were delivered to me within the Compass of Ten Weeks, but the Days and Weeks I cannot remember. First, he told me (discourfing of *New-England* and the Clergy there, and much of the Clergy here in *England*, and of the Business here of Reformation,) he told me, that for the driving on of this Interest of this Reformation, he was imployed out of *New-England* for the stirring up of this War, and driving of it on; this I shall my Lord speak to in the First Place, and that upon the Oath I have taken: And, Secondly, he was pleased at another Time to acquaint me, and that by way of Complement, complaining then against the Parliament, saying, that some time after he was come into *England* he was sent over into *Ireland* by the Parliament to receive further Instructions to drive on the Design, to extirpate Monarchy; saith he, I did dispend a great deal of my own Money, yet never had that Satisfaction from them which they promised me, that was, they promised me 2 or 3000 *l.* for my Journey, and yet they have given me no more but only a small Pittance of Land out of my Lord of *Worcester's* Estate in *Worcester-shire*. I have seen his Letters directed to his Kinsman here in *London*, as I take it his Name was *Parker*, advising him for the settling of this Land, and selling it. Thirdly, my Lord I have observed, that by way of Vilification of the Monarchical Government, I have found him jocundarily scoffing at it, and would ordinarily Quibble in this Manner, saying, this Common-wealth will never be at Peace till 150 be put down. I asked him what this 150 was, he told me Three L's, and afterwards interpreted the meaning to be the Lords, the Levites, and the Lawyers; with that said I, we shall be like *Switzers*, *Tinkers* and *Traytors*. Now, my Lord, we are come to the last Particular, we discourfing thus frequently, and withal he was then a Colonel, and had a Commission under that Usurper *Oliver*, and brought over his Commission for Raising of Soldiers to foment that War in *Ireland*; that it was so I appeal to the Dictates of his own Conscience, and whether he did not press me

me very importunately to accept of a Commission of Major, or a Captain; he did issue forth Two Commissions under his own Hand, one of them to bring over from *Devonshire* Two Foot Companies unto *Cork*. My Lord, because we were Militarily affected, amongst the Discourses of our unhappy Wars, I know not how it came from him, it being near Eleven Years since, and I have had many Sufferings incumbent on me, so that I may fail in some Particulars, but in general thus it was: We were discoursing concerning our Martyr'd King, as then we call'd him, and of his Imprisonment in *Holmeby-House*, which I wondered at; thus we discours'd, he told me the Story how they had used him at *Holmeby*; and at last came up to this, when he was taken away from *Holmeby-House*, the Parliament had then a Design to have secured *O. Cromwel*, and myself being then in *London*, saith he, we having Intelligence of it, escaped out of *London*, and rode hard for it, and as we rode to *Ware* we made a Halt, and advised how we should settle this Kingdom in Peace, and dispose of the King; the Result was this, They should bring him to Justice, Try him for his Life, and cut off his Head: Whether this was the Expression of *Cromwel* I cannot tell; but to the utmost of my Remembrance, and I am mistaken if it was not the Advice of *Mr. Peters* to *Cromwel*, and I believe it, because his former Relations of his Instructions out of *Ireland* did tend to that effect.

Mr. Soll. Gen. I will ask you this Question; we will not press you particularly upon your Memory, whether *Cromwel* or *Peters* said the Words? Do you remember he confessed to you they were agreed upon that Matter?

Young. They did consult and agree upon it.

Peters. My Lord, I desire to speak a Word, (his Voice being so low he was brought to the Second Bar,) I am the Bolder to speak to your Lordships at this Time a Word, and it is high Time to satisfy my Conscience; if these Things were true there is enough said to destroy me, I desire leave to tell you what Offence I take at the Witness, thus my Lord. This Gentleman I do know—

Coun. What say you to him?

Peters. That which I have to say is this, that in his Story he hath told that which is not true; but I will not find fault with him, because

cause he was my Host, I will not reflect and recriminate; I shall give your Lordships in Simplicity as much Satisfaction myself as any Witness; this I say to the Man that speaks, and this is certain, I did spend some Time at this Gentleman's House, he is called there Dr. Young; and my Trouble at this Discourse is this, I do not know, my Lord, that I found a more violent Man for the Parliament than himself; so far he undertook to be a Spy on one Side; this I find to be so, he will not deny it; he was very fierce in that Way; I think Words of such a Man ought to be little attended to. The Second is this, this Gentleman is not a competent Witness, and that upon a Twofold Ground. First, Because I know he is under a very great Temptation and Trouble in this very Thing, and it is upon this Account he was put out of his Living in the Countrey, and here he came to me to help him in again, and was very highly offended because I did not do it. Secondly, It is not that I would invalidate his Witness, but give me Leave to tell you, it is his Way to snap and catch at every Man, which is the Complaint of the People in his own Countrey. I know that same which is spoken is false; I speak it in the Presence of God, I profess I never had any near Converse with O. C. about such Things; I speak this to the Jury, that they would have a Care of the Witness; I was in Sicknes then; those that have known me do know likewise I have much Weakness in my Head when I am Sick, and to take Words that are spoken in a Sick Condition, he ought not to do it; for the Words themselves I do here profess against them, for the Generality of them; and that he hath been freer in my Judgment in any Communication this Way than I have been; it is marvellous, here I profess the Things Untruths, I call God and Angels to witness they are not true. I will give you an Account of my whole Condition by and by, if I may be heard.

Court. You shall be heard at large; that which you have been heard now is concerning the Competency or Incompetency of the Witness; the Incompetency against him is this, that when you came thither none more violent for the Parliament than himself, and that he was a great Spy, and you say it is usual with him to take such Courses, these are but Words; if you have any Witnesses we will hear them; the Man may be traduced and slandered, and so all V Witnesses may be taken away.

Court.

Court. Mr. *Peters*, if you take this Course God knows when this Business will end; if you have a Mind take Pen, Ink, and Paper, and take Notes of the VVitnesſes, and make Exceptions to them one after another; but interrupting one, and ſo another, we ſhall never have done.

Young. I do recollect myſelf of ſome other Conferences between us; as to my being Malicious, I know he never did me any Wrong, and therefore I cannot be Malicious; and as for my Reputation, having reſided Two Years in *London*, I can have Certificates both from my Countrey, and ſome of this City, to vindicate me in that Particular: But, my Lord, that which I would inform your Lordſhip is this, he told me he took Duke *Hamilton* a Priſoner himſelf in his own Chamber, ſeized on his Goods, and took his *George* and Blue Ribband off his Shoulder, and this *George* he ſhewed me.

Wybert Gunter Sworn.

Coun. Mr. *Gunter*, what can you ſay concerning a Meeting and Conſultation at the *Star* in *Coleman-ſtreet*?

Gunter. My Lord, I was a Servant at the *Star* in *Coleman-ſtreet* with one Mr. *Hildeſley*; that Houſe was a Houſe where *Oliver Cromwel* and ſeveral of that Party did uſe to meet in Conſultation; they had ſeveral Meetings; I do remember very well one among the reſt, in particular that Mr. *Peters* was there; he came in in the Afternoon about Four a Clock, and was theretill Ten or Eleven at Night; I being but a Drawer could not hear much of the Diſcourſe; but the Subject was tending towards the King after he was a Priſoner, for they called him by the Name of *Charles Stewart*: I heard not much of the Diſcourſe; they were writing, but what I know not; but I gueſſed it to be ſomething drawn up againſt the King; I perceived that Mr. *Peters* was privy to it, and pleaſant in the Company.

Court. How Old were you at that Time?

Gunter. I am now Thirty Years the laſt *Bartholomew-Day*, and this was in 1648.

Court. How long before the King was put to Death?

Gunter. A good while; it was ſuddenly, as I remember, Three Days before *Oliver Cromwel* went out of Town.

Peters. I was never there but once with Mr. *Nathanael Fines*.

Coun.

Coun. Was *Cromwel* there ?

Gunter. Yes.

Coun. Was *Mr. Peters* there any oftner than once ?

Gunter. I know not, but once I am certain of it ; this is the Gentleman, for then he wore a great Sword.

Peters. I never wore a great Sword in my Life.

Mr. Starkey Sworn.

Starkey. My Lords, in the Month of *December* before the King died, in the Beginning of that Month, and so towards the 12th of *January* following, the Head-quarters of the Army were at *Windsor*, and *Mr. Ireton*, that is dead, (who was a General Officer of the Army, was quartered in my Father's House there, and by reason of his long Residence there, being about Two Months, (his Wife was there too,) my Lords, this Gentleman, *Mr. Peters*, he likewise quartered in another Place in that Town, and *Cromwel* himself was quartered at one *Mr. Baker's* that lay low in the Town, so that in Truth my Father's House being near the Castle, and there being in it a large Room, and in respect that *Mr. Ireton* was quartered there, usually the Council of War sate there: My Lords, I was then in the House constantly; besides this Council of War, which did commonly sit there, I did observe that *Cromwel*, *Ireton*, and this Gentleman, *Mr. Peters*, and one *Col. Rich*, and a Fifth Person, whose Name I have forgot, did usually meet and consult together, and would sit up till Two or Three a Clock in the Morning very privately together; this was their usual Course when their Council of War sate; *Mr. Ireton* came in to Supper, but went out again; there were Guards upon them: After this Time it happened so that I was often in *Mr. Ireton's* Company, where *Mr. Peters* coming to him, was very often at Meals there, but especially at Nights, by Occasion of that.

Mr. Ireton, being Civil in Carriage, would usually entertain Discourses with *Mr. Peters*, likewise would favour me sometimes with Discourse, and in that Discourse I did many Times take Occasion to assert the Laws in Point of the King, and discoursing about the King as being a Capital Instrument in the late Inconveniences, as they called it, in the Times of the War, *Mr. Ireton* would discourse this ordinarily

I was bold to tell them that the Person of the King was *solutus legibus*; this Gentleman, the Prisoner at the Bar, told me it was an unequal Law. I did observe Mr. *Peters* that he did bend his Discourse, not by Way of Argument only, but in Point of Resolution of Judgment, fully against the Person and Government of the King. I remember some of his Expressions were these, That he was a *Tyrant*, that he was a *Fool*, that he was *not fit to be a King*, or bear that *Office*; I have heard him say, that for the Office itself, (in those very Words which shortly after came into Print,) that it was a *Dangerous, Chargeable, and Useless* Office. My Lords, the constant Discourse of this Gentleman at that Time was such as he did believe would never be called into Question, so that it was not a Thing that a Man was necessitated to observe by an Accident, but it was their full and whole Discourse. I will put you in mind of a particular Passage, When the News came to *Windsor* that the King was in Prison at the *Isle of Wight*, my Father, whose House that was, was very much troubled at it; and being an Ancient Man, was not able to controul his Passions with Reason, told my Mother, that they (meaning Mr. *Ireton*, &c.) should have no Entertainment there, and took the Key of the Cellar and put it in his Pocket; his Passions being lessened, Mr. *Ireton*, his Wife, and another Officer being at Supper, and afterwards my Father said Grace, and as he usually did, though they were there, he said that Usual and Honest Expression, praying for the King in these Usual Words, *God save the King, Prince, and Realm*; sometimes they did laugh at it, but never did reflect upon him; but this Night he made this Expression, *God save the King's most Excellent Majesty, and preserve him out of the Hands of all his Enemies*, *Peters*, who was then at the Table, turns about to him, and said, Old Gentleman, your Idol will not stand long; I do conceive he meant it of the King. For a Matter of Two Months of the constant residence and being of the Army there, I did observe that in the General Council there, and in this Private Cabal, (after the Business was broke out, and when the King was taken Prisoner, and carried to *Windsor*.) Mr. *Peters* was the constant Man; and when the Business broke out, I looked upon it in Reason that *Cromwel*, *Ireton*, and this Gentleman

Gentleman at the Bar, and *Rich*, and that other Gentleman, whose Name I have forgot, that they were the Persons that did the Business. My Lords, Mr. *Peters* he continued at *Windsor*; I remember very well that after the Body of the Army, the General, and the Officers of the Army, were gone to *London*, he continued in *Windsor*: I remember a Passage of one *Bacon*, who was a Secretary; Mr. *Peters* being in Discourse of the King, Mr. *Bacon* took great Distaste at Mr. *Peters* for some Affront put upon the King; Mr. *Peters* falls upon him, and rails at him, and was ready to beat him; we understood it so because he did tell him of his affronting the King.

Coun. Mr. *Peters*, if you have any Thing to ask this Witness you may.

Peters. I have many Things to ask him. Did I ever lye there?

Starkey. No.

Pet. Did you see me there at Three a Clock in the Morning?

Starkey. I have seen you go up at Ten a Clock at Night to Mr. *Ireton's* Chamber, and sometimes I understood you did not go away till Four a Clock in the Morning; I went to Bed, it's true, but I understood it so.

Thomas Walkeley Sworn.

Coun. Give your Testimony what Consultation you have had with the Prisoner at the Bar.

Walkeley. I came out of *Essex* in at *Aldgate*; just as I came in a Proclamation was read for Trial of his late Majesty; I went down the next Day to the Painted Chamber at *Westminster*, where I saw *Oliver Cromwel*, *John Goodwin*, and *Peters*, and others; *John Goodwin* sat in the middle of the Table, and he made a long Speech or Prayer, I know not whether, but Mr. *Peters* stood there: After *John Goodwin* had done his Prayer, it was desired that Strangers might avoid the Room; then came up *Cook*, and *Doristlaus*, and *Humphreys*, and *Ask*, and *Dendy*, and several others, and stood by *Bradshaw* at the upper End of the Table; but *Cromwel* stood up and told them it was not necessary that the People should go out; but that was over-ruled; and so I went out, and staid their rising, and saw this Gentleman Mr. *Peters* come out with them. After that, when the King was brought to Town a Prisoner, the Lord *Carew*, a very

Hanover

Honourable Person, meeting with me, saith he, *Walkeley*, if you will see your Old Master, go now, or else it may be you will never see him. Where is he, my Lord? Said I; saith he, he is coming on this side *Brainford*. I went to the farther end of *St. James's Corner*, and there I met some of the Army coming, and then I saw his Majesty in his Coach with Six Horses, and *Peters*, like Bishop *Almoner*, riding before the King triumphing; then after that, in *St. James's Park*, I saw *Peters* marshalling the Soldiers, and I was forced to go about. My Lord, this is all I can say concerning that; I remember one thing further of him, I heard him in *Westminster-hall* say, within a Year or Two after the Army was raised, *If we can keep up our Army but Seven Years longer we need not care for the King and all his Posterity.*

Mr Proctor Sworn.

Pr. I having occasion to go from *London* to *Windsor* the Day that the King was brought from thence a Prisoner, a little on this side *Brainford* I saw great Troops of Horse; I did conceive what the Cause was, having heard the King was to be brought up to his Trial; after I had passed some number of Horses, at last I espied the Prisoner at the Bar immediately before the King's Coach; singly riding before the Coach-horses, and the King sitting alone in the Coach. My Lord, I did put off my Hat, and he was Graciously pleased to put off his Hat; the Troopers seeing this, they threw me into the Ditch Horse and all, where I staid till they passed by, and was glad I escaped so.

Hardwick Sworn.

Coun. When the Proclamation was read in *Westminster-hall* for Trial of the King, did you see Mr. *Peters* there?

Hard. I was in the Hall when that ugly Proclamation was proclaimed, where I saw *Dendy*, King, and that Gentleman, the Prisoner at the Bar, in the Hall; after the Proclamation was proclaimed, the Prisoner at the Bar came out into the *Palace-yard* and told them, *Gentlemen*, saith he, (a great many Officers and Soldiers being there,) *all this is worth nothing unless you proclaim it in Cheapside, and at the Old Exchange.*

Council. Explain yourself, what Proclamation do you mean?

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Har. The Proclamation for the High Court of Justice.

Holland Simpson Sworn.

Coun. What do you know concerning the Prisoner at the Bar?

Simpson. I do know Mr. *Peters* very well. I have known him these 11 or 12 Years: When the High Court of Justice was sitting, both in the Court and *Painted Chamber*. I saw this Gentleman in Consultation there, and at several other Places, at Sir *Will. Brereton's*, and otherwhere.

Coun. Did you see him at the Trial?

Simpson. I saw him, but not as a Judge. There was one Day in the Hall Col. *Stubbards*, who was Adjutant-General, (he was a very busie Man,) and Col. *Axtel*; Mr *Peters* going down the Stairs, comes to him, and bids *Stubbards* to command the Soldiers to cry out *Justice, Justice, against the Traytor at the Bar*.

Coun. Who did he mean?

Sim. The King was at the Bar at the same Time; whereupon, my Lord, the Soldiers did cry out upon the same; and as the King was taken away to Sir *Robert Cotton's*, some of them spit in the King's Face, but he took his Handkerchief, wiped it off, and smiled.

Peters. I do not know this Gentleman, did he ever see me?

Sim. Yes, divers Times in the *Painted-Chamber*, at Sir *William Brereton's*, at the Deany, in Consultation, with *Bradshaw*, and you were admitted, and no Man else, as I know, unless Sir *Will. Brereton*, who came along with you.

Thomas Richardson Sworn.

Richardson. My Lords, the First Day that this Court of Justice (as they called it) did adjourn, I went up into the Court, and I saw the Prisoner at the Bar with some more standing in the Court, and I came and stood close by him, and some with him, whom I did not know, I heard him commend *Bradshaw*, the Carriage of him in the Trial of the King, and another *Cook's* Carriage; to be short, Mr. *Peters* holding up his Hands, said, *This is a most Glorious Beginning of the Work.*

Sir Jeremy Whichcot Sworn,

Which.

Whitch. My Lords, I have by Accident, not by Choice, been several Times in Mr. *Peters* Company ; truly I have heard him speak very scurrilously of the King ; amongst the rest he was making some kind of Narration of *Cromwel* making an Escape, and that he was intended to be surpriz'd ; *That if he had not presently gone away he had been clapt up in the Tower, and declared a Traytor ; he said there was a Meeting of the Officers of the Army, where he us'd this Expression, And there we did resolve to set aside the King.* My Lord, after this (it was at another Time) he was speaking of that which they called the High Court of Justice, and I do very well remember this was his Expression of it, I cannot but look upon this Court with a great Reverence, for it doth resemble in some Measure the Trial that shall be at the End of the World by the Saints. This is all that I perfectly remember ; it was a great while ago ; I cannot speak more punctually ; I have seldom heard him speak of the King, but of the Tyrant : I remember one Time he was saying he would have preached before the King, but, said he, *the Poor Wretch would not hear me.*

Richard Nunnelly Sworn.

Coun. Was *Peters* upon the Scaffold at the Time of Execution or before ?

Nun. On that unhappy Day, 30th of Jan. 1648, this *Hugh Peters* came an Hour before the King came to *Whitehall* ; I came with a Warrant of 40 or 50000 l. to *Oliver Cromwel*, being Door-keeper to the Committee of the Army ; *Nunnelly*, says *Oliver Cromwel*, will you go to *Whitehall* ? Surely you will see the Beheading of the King, and he let me into *Whitehall* ; coming into the Boarded Gallery I met *Hugh Peters*, and he was in the Gallery ; and then I got with *H. Peters* into the *Banqueting-House* ; being there, *Hugh Peters* met one *Tench* of *Houndsditch*, that was a Joiner ; meeting him, he speaks to him, and whispers in his Ear, and told him somewhat, I do not know what it was ; but *Tench* presently went and knocked Four Straples upon the Scaffold ; I meeting *Tench* again, what art thou doing, said I ? What will you turn Hangman ? Says he, this Day will be a Happy Day ; said I, pray God send it be not a Bloody Day ; upon that *H. Peters* went upon the Scaffold just an Hour before the King came,

came, and then he went off again, I watched at the Window when the King's Head was cut off, and afterwards I saw the Vizards going into a Chamber there; about an Hour afterwards (I staying there at the Door) there comes *H. Peters* in his Black Cloak and Broad Hat out of that Chamber (as I take it) with the Hangman; I am sure I did see him go along with the Hangman to take water; this is all I can remember, it being many Years since.

Peters. I humbly beg I may be heard in this Case; I have here a Witness, and I desire he may be examined; it is noised I was upon the Scaffold, I here call God to witness I was not out my Chamber that Day; I was sick that Day; I speak in the Presence of the Lord.

Court. If your Witness will stay he shall be heard; there are more Witnesses to the same Thing, and so he may speak to all together.

Dr. Mortimer Sworn.

Mortimer. Me Lar, me ha seid de King, &c.

Court. We cannot understand a Word.

Coun. He is a Frenchman, my Lord.

Court. Pray let there be an Interpreter.

One *Mr. Young* was Sworn to interpret truly his Evidence.

But it being afterwards found difficult and troublesome, the Council waved his Evidence, and prayed another Witness might be called.

Dr. Mortimer. Me Lar, me can peak Englis—

Coun. No, no, pray sit down, we will examine other Witnesses, call *Stephen Clough*.

Stephen Clough Sworn.

Coun. What do you know of *H. Peters*.

Clough. My Lords and Gentlemen of the Jury, in 1648 I heard of a meeting of the Council of Officers at *Westminster*, I think in the *Painted-Chamber*, and I willing (my Lord) to hear what their Consultations were, I went thither, and was there as one of them, (but I was not one,) amongst the rest *H. Peters* was one; when the Room was pretty full the Door was shut, *Mr. Peters* desired to call for a Blessing upon their Business, in his Prayer he uttered these Words, O Lord, (saith he,) what a Mercy is it to see this great City fall down before

before us! And what a Stir is there to bring this Great Man to Trial, without whose Blood he will turn us all into Blood if he Reign again!

Peters. *What Day was this?*

Clough. It was about Three Weeks or a Month before the King died.

Peters. *Where was this?*

Clough. In the *Painted Chamber*.

Peters. *You have been very Bold.*

Clough. I speak upon my Oath.

Peters. *How long was this ago?*

Clough. In 1648.

Peters. *How many Years since is that?*

Clough. You know yourself sure how many Years since 1648.

Peters. *How long before the King died do you say?*

Clough. About Three Weeks or a Month before the King was Murdered.

Coun. We shall call a Witness to prove, that in *December*, 1648, there was a Solemn Fast appointed to seek God in what they were about, and Mr. *Peters* was appointed to Preach before them.

Mr. *Beaver* Sworn.

Mr. *Beaver's* Evidence. My Lord, and you Gentlemen of the Jury, upon a Day that was appointed for a Fast for those that sate then as a Parliament, I went to *Westminster* to find out some Company to Dine with me, and having walked about an Hour in *Westminster-hall*, and finding none of my Friends to Dine with me, I went to that Place called *Heaven*, and Dined there; after I had Dined I passed through *St. Margaret's Church-yard* to go Home again, (I lay in the *Strand*,) I perceived all the Church-yard full of Muskets and Pikes upon the Ground, and asked some Soldiers that were there what was the Business? They told me they were guarding the Parliament that were keeping a Fast at *St. Margaret's*; who Preaches said I? They told me Mr. *Peters* is just now gone up into the Pulpit; said I, I must needs have the Curiosity to hear that Man, having heard many Stories of the Manner of his Preaching; (God knows I did not do it out of any Manner of Devotion;) I crouded near the Pulpit, and came

near the Speaker's Pew, and I saw a great many of the Members there, whom I knew well : I could not guess what his Text might be, but hearing him talk much of *Barabbas* and our Saviour, and insisting altogether upon that, I guessed his Text was that Passage wherein the *Jews* did desire the release of *Barabbas* and crucifying of *Christ* ; and so it proved; the First Thing I heard him say was, *It was a very sad Thing that this should be a Question amongst us, as among the Old Jews, whether our Saviour Jesus Christ must be crucified, or that Barabbas should be released, the Oppressor of the People : O Jesus, saith he, where are we, that that should be a Question amongst us? Says he, And because that you should think, my Lords and Gentlemen, that it is a Question, I will you it is a Question ; I have been in the City, which may very well be compared to Hierusalem in this Conjunction of Time, and I profess those foolish Citizens for a little Trading and Profit they will have Christ (pointing to the Redcoats on the Pulpit-stairs) crucified, and that great Barabbas at Windsor released, says he ; but I do not much heed what the Rabble says : I hope, says he, that my Brethren of the Clergy will be wiser, the Lips of the Priests do use to preserve Knowledge ; I have been with them too in the Assembly, and having seen and heard what they said, I perceive they are for crucifying of Christ, and releasing of Barabbas; O Jesus, what shall we do now ? With such like strange Expressions, and shrugging of his Shoulders, in the Pulpit.*

Council. How long was this before the King was Murdered ?

—It was a few Days before the House of Commons made that Thing called An Act for his Trial.

Coun. What did he say to the Members ?

—I am coming to it ; says he, my Lords and you Noble Gentlemen of the House of Commons, you are the Sanhedrim, and the great Council of the Nation, therefore you must be sure to do Justice, and it is from you we expect it ; you must not only be Inheritors of your Ancestors, but you must do as they did ; they have opposed Tyrannical Kings, they have destroyed them ; it is you chiefly that we look for Justice from. Do not prefer the great *Barabbas, Murderer, Tyrant, and Traytor, before these poor Hearts, (pointing to the*

the Redcoats,) and the Army, who are our Saviours: And thus for Two or Three Hours Time that he spent he nothing but rak'd up all the Reasons, Arguments and Examples, he could to perswade them to bring the King to condign, speedy and capital, Punishment.

Peters. *I do not know you; are you sure you saw me at that Time? Do you know me?*

— Yes. Sir.

Peters. *I did not Preach there at that Time.*

Coun. Pray my Lord will you call Mr. Jessop who hath the Records of the Parliament, and can produce the Order, whereby you were appointed to carry on the Work of that Fast; there was the Order for his Preaching, and Order for Thanks for his Work.

Mr. Jessop produced the Journal, wherein was the Order following, which was read.

Cl. reads, Die Jovis 7. Septemb. 1648. *Resolved that there be a Day of Publick Humiliation for this House to seek God in these Times of Difficulty, and that to Morrow be the Day, and kept here in this House. Resolved that Mr. Peters Mr. Marthall, and Mr. Caril, be desired to perform the Duty on the Day of Humiliation with the House to Morrow.*

Coun. That is not it we intend, there was one after that in Decemb 1648.

Cl. reads, 20 Decemb. 1648. *Ordered that Mr. Peters be desired to preach on Friday next, the Day of Publick Humiliation, at Margarer's Westminster, in the Place of —*

Coun. Call Mr. Chace. After this the Work went on, and the High Court of Justice sate; and the First Day they sate was Saturday Jan. 20. in Westminster-Hall, the 21st being the Sunday following; I think this Gentleman was at White-hall; he will tell you what he preached.

Mr. Chace Sworn.

Chase. My Lord, I heard the Prisoner at the Bar preaching before Oliver Cromwel and Bradshaw, who was called Lord President of the High Court of Justice, and he took his Text out of the Psalms in these Words, *Bind your Kings with Chains, and your Nobles with Fetters of Iron*; that was part of the Text:

But says he in his Sermon, Beloved, it is the last Psalm but one, and the next Psalm hath Six Verses, and Twelve Hallelujahs, Praise ye the Lord, praise God in his Sanctuary, and so on; for what? Says he, Look into my Text, there is the Reason of it, That Kings were bound in Chains, &c. He went on with a Story of a Major and a Bishop and his Man; the Bishop's Man, saith he, being Drunk, the Major laid him by the Heels; the Bishop sends to the Major to know by what Authority he imprisoned his Servant; the Major's Answer was, there is an Act of Parliament for it, and neither the Bishop nor his Man are excepted out of it; and applied it thus, Here is, saith he, a great Discourse and Talk in the World, what? Will ye cut off the King's Head, the Head of a Protestant Prince and King? Turn to your Bibles and you shall find it there, *Whosoever sheds Man's Blood, by Man shall his Blood be shed*; says he, I will even answer them as the Major did the Bishop, here is an Act of God, *Whosoever sheds Man's Blood, by Man shall his Blood be shed*; and I see neither King Charles, nor Prince Charles, nor Prince Rupert, nor Prince Maurice, nor any of that Rabble, excepted out of it. And further he said, This is the Day that I and many Saints of God besides have been praying for these many Years.

Peters. *Ask him whether he took Notes?*

Chafe. No, Sir, but it being so Memorable a Sermon I took special Notice of it; I came to my Brother's House at *Shoe-lane*, and told him, said I, Brother, I have been at *White-hall*, and have heard the most Execrable Business that ever was heard in the World by a Minister of the Gospel, and I told him the Words; I observed that *Oliver Cromwel* did laugh at that Time when you were Preaching.

Tho. Tongue Sworn.

Coun. What do you know of the Prisoner's Preaching?

Tongue. Upon Jan. 21. 1648, I was at *Whitehall*, where this Gentleman preached, and he preached upon this Text, Psalm 149. v. 8. *To bind their Kings in Chains, and their Nobles in Links of Iron*; in which Text this Peters did much applaud the Soldiers there; he said he hoped to see such another Day following as the Day before; and that Blessed be God (says this Parson Peters) the House, the Lower House,

House, is purged, and the House of Lords themselves they they will down suddenly ; this is all that I well remember at that Time. Upon the 28th of *January*, 1648, next Day after Sentence of the King, I heard *Peters* Preach upon this Text in *St. James's Chapel*, *Psal*m 149. 6, 7, 8, 9, Verses. *Let the high Praises of God be in their Mouth, and a Two-edged Sword in their Hands, to execute Vengeance upon the Heathen, and Punishment upon the People, to bind their Kings with Chains, and their Nobles with Fetters of Iron, to execute upon them the Judgment written, this Honour have all his Saints, praise ye the Lord*: And there he did so Saint the Redcoats, and so Reprobate the Poor King's Friends. And in the Middle of his Sermon he took Occasion to produce a Text, *Psal*. 14. 18, 19, 20. *All the Kings of the Nations, even all of them, lye in Glory, every one in his own House. But thou art cast out of thy Grave like an abominable Branch, and as the Raiment of those that are slain, thrust through with a Sword, that go down to the Stones of the Pit, as a Carcass trodden under Feet ; thou shalt not be joined with them in Burial ; because thou hast destroyed thy Land, and slain thy People, the Seed of Evil-doers shall never be renowned*: Says he, this I did intend to insist and preach upon before the poor *Wretch*, and the poor *Wretch* would not hear me.

Coun. Who did he mean ?

Tongue. His Majesty, who was the Day before Condemned ; faith he, look in your lesser Bibles and you shall find the Title is, *The Tyrant's Fall*.

Coun. That that was spoken of the King of *Babylon*, the Ignominy that was cast upon him, he applies it to the King of *England*.

Peters. Ask him where it was ?

Tongue. It was in *St. James's Chapel*, Sunday the 28th of *Jan.* 1648, in the Forenoon.

Reynold Bowdler Sworn.

Bowdler. That which I have now to say is this, I did hear him a few Days before the King was Murdered Preach in *St. Sepulcher's Church*, there he compares the King that was then to die to *Barabbas* a Murderer, and in this Manner ; faith he, there is a great Company amongst us like the *Jews*,
they

they cry out, let *Christ* be crucified, and let *Barabbas* be released, still comparing the King to *Barabbas* the Murderer; these were his Words, with many more to the same Purpose.

William Rider Sworn.

Coun. Speak what you know concerning the Prisoner.

Rider. I was at the same time at Church in *S. Sepulchers*.

Coun. How long was that before the King died?

Rider. It was very near the King's Death.

Coun. Was it after the High Court of Justice fate, as they called it?

Rider. About that Time it was. My Lord, as soon as ever he had read the Words of his Text, which was, *He shall call his Name Emanuel*, he presently took Hands with his Text, and fell (as he was wont) to News, and there he said, the great Inquiry now is to know what should become of the King; let that alone, saith he; and presently he falls to it again, and was pleased to stile the King *Barabbas*; saith he, there is a great many of the People had rather *Christ* should be crucified than *Barabbas*; and here he was applauding the Soldiers; and said that *Emanuel* was written upon the Bridles of their Horses; and he was speaking of the Kings Soldiers, saith he, I have known Eighty Thousand of them, and not one of them a Gracious Person.

Coun. Now we expect the Answer of the Prisoner at the Bar, the Indictment hath been fully proved.

Peters. I desire that Witness may be admitted which I spoke of, his Name is Cornelius Glover.

Coun. We have omitted One Evidence, we desire Master Walker may be called.

Mr. Walker Sworn.

Walker. On Sunday after the King was first brought to his Trial, out of Curiosity I went to hear Mr. Peters at Whitehall; after he had made a long Prayer, saith he, I have prayed and preached these Twenty Years, and now I may say with Old Simeon Lord, now lettest thou thy Servant depart in Peace, for mine Eyes have seen thy Salvation. Afterwards he speaks of the Text, of binding their Kings in Chains, &c. then much reviled the King: But soft there, saith he, I must

not talk so here, I am in the King's Chapel; there is a very Remarkable Passage in *Amos*, *Amos* went to Preach, and *Amaziah* would not let him, but *Amos* would Preach; the *Poor Wretch* would not hear me, but yet I will Preach. Afterwards he speaks of the *Major* of *Exeter* that committed the Bishop's Servant for being Drunk; saith the Major, here is an Act of Parliament for it, and I do not see that the Bishop nor his Man are either of them excepted out of the Act; and, saith he, in Scripture it is said, *Whosoever sheddeth Man's Blood, by Man shall his Blood be shed*; and I do not find that either King *Charles*, Prince *Charles*, Prince *Rupert*, Prince *Maurice*, or any of that Rabble are excepted.

Coun. Now Mr. *Peters* you may call your Witness.

Cornelius Glover not Sworn.

L. Ch. Bar. Where do you dwell?

Glover. In *Paul's Church-yard*.

L. Ch. Bar. What is your Quality of Life?

Peters. A Servant of the King's.

L. Ch. Bar. I do not ask you, Mr. *Peters*.

Glover. I belong to the *Post-house*.

Peters. Pray hear him speak.

L. Ch. Bar. What would you have him asked?

Peters. Whether I was out of my Chamber that Day the King suffered.

L. Ch. Bar. What say you to that?

Glover. I was come to Mr. *Peters* a little before that Time to live with him as his Servant; it fell out that Day he was ill in his Chamber all the Morning; the Soldiers in *St. James's House* were all gone away; I had a Desire to go see the Meeting, where they were at *Whitehall*; saith he, thou seemest to have a great Desire to go and look about thee, it is very sad, but if you will go you may. I did go over the *Park*.

Coun. What Time?

Glover. About Noon.

Coun. What Hour?

Glover. I do not know; I did not stay there; the Soldiers and the People fill'd the Place, and I went back again to the Chamber; I came back again within a Matter of an Hour's Time.

Coun.

Coun. Was the King dead before you came back again ?

Glover. They said he was not : When I went Home he asked me what was doing ? I told him there was a great Croud, I could not come near ; I staid there an Hour, and then went out again, and still there was a Croud ; and I came back again, and Mr. *Peters* was in his Chamber then.

Coun. Was he in Bed, or up ?

Glover. I do not remember.

Coun. How Old were you then ?

Glover. I am not above 32 or 33.

Coun. Was Mr. *Peters* Sick ?

Gl. Yes, he was Melancholy Sick, as he used to be.

L. Ch. Bar. How long have you been at the *Post-house* ?

Gl. About Five Years.

L. Ch. Bar. Mr. *Peters*, have you any more to ask him ?

Peters: I brought him to testifie that I was not out of my Chamber that Day, and that I was Sick.

L. Ch. Bar. Did you desire to go, or did he send you ?

Gl. I did desire to go, being newly come to London.

L. Ch. Bar. This Gentleman, though not upon Oath, is examined, and it is only to One Particular, nothing at all to the Main Proofs.

Peters. I bring him only to vindicate myself from that Asper-
sion of my being upon the Scaffold.

L. Ch. Bar. They do not lay the Weight of their Evidence upon that : The King's Council have done with their Evidence, if you have any Thing to say you have your Liberty.

Peters. May it please your Lordships, I will give you an Account of the Business : I lived Fourteen Years out of England, when I came over I found the Wars begun ; I began no War, my Lord, nor have been the Trumpeter ; when I came out of the West-Indies, I fled from the War into Ireland, to the Western Part there ; and it was after the Rebellion, when some of the Irish had been stirring there, I went and spent my Time there. I was neither at Edge-hill, nor Naseby ; but, my Lord, after I came over there was War that the People were engaged in ; I was not here in the Beginning of it, but was a Stranger to the Carriage of it. When I came into the Nations

I

I looked after Three Things, One was, that there might be Sound Religion; the Second was, that Learning and Laws might be maintained; the Third, that the Poor might be cared for; and I must confess I have spent most of my Time in these Things, to this End and Purpose: There was a Noise in all Parts of some Miscarriages in Matters of Religion, after it was settled I lived in Ireland; I must profess for my own Part solemnly that my Carriage hath been upon these Heads. For Religion, I have, through God's Mercies, spoke the Truths of the Protestant Church, upon this Account I did stay to see what God might do; I was sent over to his Majesty that we might have a little Help in Point of Excise and Customs, and Encouragement in Learning. My Lord, this is true, that I being here in the Nation, and being sent over upon the Occasions of the Countrey, and not upon any Design; but this I say, (I cannot deny it,) that after I came over, and had seen the State of England, in some Measure I did stir, but by strong Importunities, the Ministers of London deeper than I: I am very sorry to hear of my Carriage towards the King; it is my great Trouble; I beg Pardon for my own Folly and Weakness; I thought God had a great Controversy with the Nation, and the Lord was displeased on all Hands; that which some People took to I did take unto; I went into the Army; I saw at the Beginning of it that Corruptions grew among them; I suppose none can say I have gone aside from any Orthodox Truth of the Lord: And now to take off the Scandal upon me, and to the Business, let me beg of your Lordships to consider whatever Prejudices or Revenge may take up Mens Hearts, there is a God that knows all; God hath a Regard to the People of England; I look upon this Nation as the Cabinet of the World. That that doth concern the Business is this, my Lord, that after this Time hither I came, and did bear Witness to all the World that there was amongst us something that was for better, and something worse, for the Nation; I took Advice of some Great Persons concerning the Weightiness of it; I had neither Malice nor Mischief in my Heart against the King; upon this I did engage so far, being Invited; I went into the Wars, and there I found very Strange and several Kinds of Providences, as this Day hath been seen; I do not deny but that I was Alive, but

but not to stir in a way that was not Honourable. I challenge a great Part of the Nations to manifest my Carriage among them ; I shall make it good divers ways ; I had so much respect to his Majesty particularly at Windsor, that I propounded to his Majesty my Thoughts Three ways to preserve himself from Danger, which were good as he was pleased to think, though they did not succeed, and the Work died ; as for Malice I had none in me. It is true, there was a difference amongst us, an Army, and an Army ; I never had a Groat or Penny from O. Cromwel since I knew this Place ; I profess I have had no Ends for Honour or Gain since I set Foot upon this Shore ; I challenge any Man that belonged to that Party whether they had not the same Respect from me as my own Party ; I have not persecuted any with Malice ; I will only take off Malice.

L. C. B. Your Business is Matter of Fact.

Peters. I am unskilful in Law, this that I offer is to shew that I had no Malice in me ; I was so far from Malice, that I have a Certificate, if worth the reading, from one of the Eminentest Persons in the Nation, to shew I had no Malice: It is concerning the Marquiss of Worcester under his Ladies Hand, beginning with these Words, I do here testifie that in all the sufferings of my Husband Mr. Peters was my great Friend, &c. I have here a Seal, (and then produced it) that the Earl of Norwich gave me to keep for his Sake for saving his Life, which I will keep as long as I live.

L. C. Bar. I am not willing at all to interrupt you, or hinder you ; that which you speak of doing good Services is not at all to the Point ; we do not Question you for what Good you have done, but for the Evil you have done ; I hope there is no Malice in your Heart, nor upon the Court nor Jury, we and they are upon our Oaths ; and you hear the Matter alledged against you ; pray come to the Matter.

Peters. My Lord, I cannot remember them.

Lord Ch. Baron. Then I will remember you, you are charged by this Indictment for Compelling and Imagining the Death of the King, and there is set forth sundry Particulars to prove the Overt-act, that you, with other Persons named in that Indictment, did consult and meet together how to bring about the King's Death. Then

you

you are charged with several Acts of Contriving and Endeavouring the *King's* Death. Overt-acts that tend to the Compassing and Imagining the *King's* Death, or any one of these, to encourage the bringing on the *King* to his Death, the consulting or meeting together about it, though you did not sit or sentence; yet if you did any Thing tending to that Incouragement, or otherwise Abet it, Comfort, or any wise Aid those Trayterous Persons that did it, in the doing of it you are by Law guilty of the whole Fact: The proposing and determining the *King* shall die, though you were not he that actually put him to Death, yet notwithstanding if you did the other, you are guilty of all; if you shall speak any Seditious Speeches, be they in the Pulpit, or out of the Pulpit, if you shall utter any Thing that tends to Sedition. these are open Acts, which prove the Imagination of the Heart, though Imagination of the Heart be Treason, yet it cannot be proved but by open Acts, yet the Imagination it self is Treason. First you did conspire, all the Witnesses go along to prove this. *Dr. Young* saith, you came over from *Ireland* to his House, and after Five Days that you were recovered of the Flux, you staid there Ten Weeks; you said yourself there was enough, if it were true, to condemn you or any Man: I shall repeat it to you; you told him a Narrative, that you came from *New-England*, from thence to *Ireland*, and then you came to *Holland*, with an Intent to see how you might bring on the Kingdom to be a Commonwealth: Next he saith, you spake very often against the *King* by way of Disgrace, against him and his Family, against the *King* and his off-spring, this you said very often: Then you spake in Vilification of Monarchical Government, that this Commonwealth would never be at Peace till 150, or Three L's, Lords, Levites, and Lawyers were taken away, at which he replied, then there must be all Switzers, Tinkers or Traytors; he swears you were a Colonel, and had a Commission; that you would have had him accept of a Commission; and that you had Two Companies come from the West; you told him the Parliament had an Intent to secure *Cromwel* and your self, but that you rid hard for it; and then you confessed you agreed then upon his Death, to bring him to Trial, and to cut off his Head; you did

did agree together, and he believes it was your Advice to *Cromwel*; your Answer was this, that he was more violent than yourself; that he took upon him to be a Spy; and that he was no competent Witness, because he was under a Temptation, because you did not help him to his Living, and so conceived it to be Malice; you say he was used to take up such Courses in his own Countrey; the Matter is not whether you had Malice to the King's Life or Monarchy. For the next, One *Gunter*, he swears, that he was a Servant to Mr. *Hildesley*, at the *Star* in *Coleman-street*, and this was in 1648; he saith, that many of the Party of *Cromwel* did use to resort thither, among the rest he saw you, he said he came in to them, and their Discourse was about *Charles Stewart*, and the Prisoner--and did guess it was about the King; that you were privy to it then; he saith this was Three Days before *O. Cromwel* went out of Town; the Effect of that is urged no further than this, that you were so far of the Cabal, that you were present with those Persons, *Cromwel*, *Ireton*, *Rich*, and others; you said, *I was there once with Mr. Nathanael Fines. Starkey*, he saith, that at his Father's House *Ireton* lay, and was quartered there at *Windfor*, before and when the King was Prisoner; that you had your Quarter there, and *Cromwel* too, in that Town: The General Meeting of the Council of War was at his Father's House; there *Ireton* and his Wife lying there, you came and resorted thither very often; he saith then, that it appeared that after the Council of War had done, many Times *Rich*, and you, and *Cromwel*, and *Ireton*, were there together, sometimes till Two a Clock in the Morning; he saith then, that he did observe there was a Fifth Person, (he did not remember his Name) and you sat up usually till Two or Three in the Morning; you had Guards about you; he saith further, that *Ireton* being a Domestick, he often discoursed with him, and you came sometimes to be there too; that there being some Discourse concerning the King, many Times he did assert the Law concerning him, that he was *solutus legibus*, as to his Person; that you should say, that it was an unequal Law, and that you did then discourse fully against the King's Government; you said he was a Tyrant, not fit for that Office; that the Office was useless, chargeable and dangerous;

gerous; these very Words he observed, which afterwards were Printed when they took away Monarchy. He saith further, that was their full and whole Discourse; he saith that his Father at Supper used to say that usual Grace, *God save the King, Prince, and Realm*; but afterwards that he heard the King was made a Prisoner, that his Father altering the Grace, he said, *God save his most excellent Majesty, and deliver him out of all his Enemies Hands*. you rose up, and said, Old Gentleman, your Idol will not stand long; that he did observe you often with them; he saith further, when *Bacon* was coming out, and speaking some VWords concerning your frequent Affronting the King, you took up a Staff, and were ready to beat him, and made an Uproar: It appears also of your being privy to *Cromwel's* Actions; the next VWitness is *Walkeley*, and he swears this against you, that he was in the *Painted-Chamber* the next Day after the Proclamation was made, and there he saw *John Goodwin* and you; and there was an Assembly, and at the Middle of the Table *John Goodwin* was, and made a long Speech or Prayer; that *Cromwel* would have had the People stay there, but it was ordered they should be turned out; at the End he saw you come out with the rest; there it appeared you were in the Consultation; he saith he met the Army at *St. James's*, and there, when they were half past, he saw the King in his Coach, and there he saw *Mr. Peters* like Bishop *Almoner* riding immediately before the King; and at *St. James's Park* he saw you Marshalling the Soldiers, that he was forced thereupon to go about; he saith further, that within a Year or Two after the Army was raised he heard you say these VWords, If we can keep up our Army Seven Years longer we need not care for the King and all his Posterity.

Peters. My Lord, I must deny Abundance of this; the King commanded me to ride before him, that the Bishop of London might come to him.

L. Ch. Bar. But this was Three VWeeks after—The next VWitness against you is one *Proffor*; he saith, that Day (as the other VWitness did) he saw you riding just before the King's Coach,

Coach, and because he did his Duty the Soldiers threw him Horse and all into a Ditch. The next Witness is one *Hardwick*, he saith, that when the Proclamation was read he saw you in *Westminster-Hall*, and that you said, they had done as good as nothing unless it was proclaimed in *Cheapside*, and at the *Old-Exchange*; this you said to some of the Officers there.

Peters. *My Lord, I cannot acknowledge it.*

L. Ch. Bar. The next Witness against you is *Simson*, he swears he saw you in Consultation with *Oliver Cromwel*, and take *Sir William Brereton* by the Hand, and come to *Bradshaw's*, and this during the Time of the King's Trial; he further saith, that one Day when the King was at his Trial you commanded Colonel *Stubbers* to bid his Soldiers cry out, *Justice, Justice*, which they cried, and afterwards some of the Soldiers spit upon the King.

Peters. *I do believe that he that swore that cannot say I was there.*

L. Ch. Bar. Another Witness is one *Richardson*, who saw you the First Day in the Court; and he said further, that you commended *Bradshaw* and another, to wit, *Cook*, for their Carriage in the Trial of the King; that you held up your Hands, and said, this is a most Glorious Beginning of the Work.

Peters. *Whereabouts in the Court?*

Richardson. In the Body of the Court, called then the *High Court of Justice*.

Peters. *My Lord, I do not know that ever I was in the Body of the Court.*

L. Ch. Bar. The next Witness is *Sir Jeremy Whichcot*, he saith he heard you often speak scurrilously of the King; and making a Narrative of *Cromwel's* Escape, you said there was a Meeting, and *there we resolved to set aside the King*; remember what the other Witness said, we agreed, and here we resolved; you said, I cannot but reverence the High Court of Justice, it doth resemble the judging of the World at the Last Day by the Saints, so it was the Saints that sat there; I would have preached before the Wretch, but the Poor Wretch would not hear me; you often called him Tyrant; I cannot possibly remember the Place, Things, or Words, that

that are alledged. Then you have another Witness, *Nunnelley*; he saith he came with a Warrant to *Oliver Cromwell* for some Money, and that he should say, go and see the Beheading of the King at *Whitehall*; he saith there he met with you (though you said you were not there that Day) going to the *Banqueting-house*; that you spoke to *Tench*, and whispered in his Ear, and that *Tench* went and knocked Staples on the Scaffold; he meeting *Tench*, said, what, are you a Hangman? Saith *Tench*, this Day will be a happy Day; he saith, after all this *Hugh Peters* was upon the Scaffold, and that he went out with the Hangman——

Peters. I do profess to your Lordships before Angels and Men that I did not stir out of my Chamber that Day.

L. Ch. Bar. The Council doth not put Reliance upon that; because of what your Witness saith, tho' his Evidence is not at all Satisfactory. The next is *Clough*, and he swears this, that he saw you in the *Painted-Chamber* with the Council of Officers, and there you desired them to call on God for a Blessing upon their Business, and there you said, O Lord, what a Mercy it is to see this great City fall down before us! And what a Stir is there to bring this Great Man to Trial, without whose Blood he will turn us all into Blood, if he reign again! And this was about a Month before the King was Murdered.

L. Ch. Bar. You hear it, Mr. *Peters*.

Peters. Some Part I did; but it is impossible for me to bear down many Witnesses; indeed, my Lord, I say this, they are marvellous Uncharitable, and speak many false Things.

L. Ch. Bar. The next is this, the Testimony concerning several Sermons of yours; and let me tell you the Pulpit ought not to be a Place where Men with Impunity may speak any Thing, what they list, of Sedition and Treason.

Peters. I am of the same Judgment myself, my Lord.

L. Ch. Bar. And there was a Solemn Day to seek God, then you preach'd at St. *Margaret's Church*; this was Mr. *Bever*; in he came, and heard you talk much of *Barabbas* and our Saviour; there you fell upon this, speaking of the King, it is a sad thing that it should now be a Question, whether we should crucifie our Saviour *Jesus Christ*, or that great *Barrabas*, speaking of the King; you called him Traytor, Tyrant, Murderer of

his Subjects, and the like, you went on in a Way of a Story, these Citizens for a little Trading they will have Christ crucified, and the great *Barabbas* at *Windsor* released; and said you, the Clergy, the Assembly, they are all for crucifying Christ, and releasing *Barabbas*; you made that Expression, *O Jesus, what shall we do?* The King was a Prisoner then at *Windsor*; you made your Application to the Parliament that was then present; you told them the People did expect Justice from them; you must not prefer the great Tyrant and Traytor, naming the King, to these poor Hearts, (the *Redcoats* standing by.)

Peters. I must profess against most of that.

Lord Chief Baron. There is the same by others. It is further proved by the Order that you were appointed to preach.

Peters. I do not deny I preached, but not these Things.

Lord Chief Bar. The next Thing is this, there was one *Mr. Chase*, this was during the Trial, he saith you preached at *Whitehall* upon this Text, *Psalm 149. to bind their Kings in Chains, and their Nobles in Fetters of Iron:* You had Two or Three other Verses more; then you made a Discourse of a Mayor and a Bishop's Man, the Bishop's Man being drunk, the Mayor committed him to Prison; the Bishop being angry, asked by what Authority? The Mayor said, there was an Act of Parliament for it; he did not find that either the Bishop or his Man was excepted; you applied that to the King; said you, I will shew you an Act of the Bible, *Whosoever sheds Man's Blood, by Man shall his Blood be shed*; this doth not except the King, Prince, Prince *Rupert*, Prince *Maurice*, or any of that Rabble.

Peters. It is false.

Lord Chief Baron. You said further, this is the Day that I and many other Saints of God have prayed for these many Years; and *Oliver Cromwel* laughed at that Time. The next Witness was *Tongue*, he heard you Preach, and he swears the same with the former; that you applauded the Soldiers, and that you hoped to see such another Day following as the Day before; and that blessed be God the House is purged, and the Lords will be shortly pull'd out; and the Twenty-eight

eighth Day of *January*, which was the Day after the King was Sentenced, at *St. James's*, his Chapel, you took for your Text the 149th *Psalm*, 6, 7, 8, and 9, Verses, whereof these Words were Part, *To bind their Kings in Chains, and their Nobles with Fetters of Iron*; there in the middle of that Sermon, having spoken before of the King, you said you did intend to Preach before the *poor Wretch* upon the 14th of *Isaiah*, 18, 19, and 20, Verses, speaking of all the Kings of the Nations, *Thou art cast out of thy Grave like an abominable Branch, &c.* he saith further, you said, look upon your lesser Bibles and you will find the Title is, *The Tyrant's Fall*. There is another Witness, that is one *Bowdler*, a few Days before the King's Death, at *St. Sepulchres*, there you fell upon the Old Comparison; all along you compared the King to *Barabbas*; and that a great many would have *Christ* crucified, and *Barabbas* released; all along comparing the King to *Barabbas*. One more, and that was *Ryder*, he heard this Text, *He shall call his Name Emanuel*; you fell to speak of News; what shall become of the King? And you said the King was *Barabbas*, and a great many would rather have *Christ* crucified than *Barabbas*. And then *Mr. Walker* he saith, that after the King was first brought to his Trial he heard you say this, I have prayed and preached this Twenty Years, and now may I say with Old *Simeon*, *Lord, now lettest thou thy Servant depart in Peace, for mine Eyes have seen thy Salvation*: He mentions that you made Use of the other Comparison of the Mayor and the Bishop's Man, and inferred from thence, that the King and Prince, &c. were not excepted out of the Scripture, where it is said, *Whosoever sheds Mans Blood, &c.* you have heard all this witnessed against you, what have you to say for yourself?

Peters. These are but single Witnesses.

L. Ch. Bar. The Statute is Two Witnesses for Treason, but not Two to One individual Thing, though there are several Witnesses have proved the same Thing about *Barabbas* and our Saviour, bind their Kings with Chains, &c. and of your other Actions there is a whole Jury of Witnesses, Two Witnesses expressly, we agreed upon the King's Death, and we resolved to set the King aside.

Pet. I do not know the Witnesses.

Lord Chief Baron. One is Sir *Jeremy Witchcot*, the other is *Doctor Young*; you shall do well if you have any Thing to say to invalid these Witnesses to speak to it, else the Jury will be sent together to deliver up their Verdict.

Peters. My Lord, if I had Time and Opportunity I could take off many of the Witnesses, but because their Testimony is without Controul I cannot satisfie myself; I have no Skill in the Law, else I might have spoke for myself; I do not know what to say more, unless I had more Time and Counsel.

Mr. Soll. Gen. If the Prisoner can say no more, here is this in it; here are Five Places where he did consult about the King's Death, at *Windsor*, at *Ware*, in *Coleman-street*, in the *Painted-Chamber*, and in *Bradshaw's House*; and Four Witnesses to prove this; there are Two Witnesses to his Comparison of the King and *Barabbas*, and Two Witnesses to his Text of binding their King in Chains, &c. Proof that he hath been in Action in *New-England*; that he came from it with that Intent, and then went to *Holland*; that he came from it with that intent, and then went to *Holland*, that he had been in Arms; that he called the Day of his Majesties Trial a Glorious Day, resembling the Judging of the World by Saints; he prays for this in the *Painted-Chamber*, preaches for it at *Whitehall*, *St. James's-Chapel*, *Sepulchres*; what Man could more contrive the Death of the King than this miserable Priest hath done? The Honour of the Pulpit is to be vindicated; and the Death of this Man will preach better than his Life did; it may be a Means to convert many a miserable Person, whom the preaching of this Person hath seduced; for many come here and say they did it in the Fear of the Lord; and now you see who taught them; and I hope you will make an Example of this Carnal Prophet.

The Jury went together, and after a little Consultation settled in their Places.

Cl. Are you agreed in your Verdict?

Jury. Yes.

Cl. Who shall say for you?

Jury. Our Foreman.

Cl. How say you? Is the Prisoner at the Bar Guilty of the Treason whereof he stands Indicted? Or Not Guilty?

Foreman.

Foreman. Guilty.

Cl. And so you say all?

Fury. Yes.

Cl. Look to him Keeper.

Coun. We desire Mr. Cook may be brought to the Bar, and that they may both have their Judgment pronounced.

Cl. John Cook, Hold up thy Hand; what hast thou to say why the Court should not pronounce Judgment for thee to die according to Law?

Cook. I have a few Words, Matter of Law: First, there is no Averment in the Indictment, that *J. Cook* mentioned in the Act of Indemnity, is the same with the *John Cook* mentioned in the Indictment, and that I am the *John Cook* mentioned in both.

L. Ch. Bar. This will not help you in this Case, you have owned, and have pleaded by the Name of *John Cook*.

Cook. The second is this, that the Overt-Acts should be particularly expressed in the Indictment.

L. Ch. Bar. This cannot be alledged in Arrest of Judgment; the Jury have found you Guilty of Compassing and Imagining the Death of the King by the Statute of 25 *Edw.* 3. and this cannot help you.

Cook. I say it was professionally.

L. Ch. Bar. That hath been over-ruled already; we have delivered our Opinions; the Profession of a Lawyer will not excuse them, or any of them, from Treason, and this hath been over-ruled, and is over-ruled again.

Cook. I humbly conceive that the remaining Part of the House of Commons were to be Judges whether there was a Force or not.

L. Ch. Bar. This is all past and over-ruled.

Cook. Then I have no more.

Cl. Hugh Peters, Hold up thy Hand; what hast thou to say for thyself why Judgment should not pass against thee to die according to Law?

Peters. I will submit myself to God, and if I have spoken any Thing against the Gospel of Christ I am heartily sorry.

Silence commanded.

L. Ch. Bar. You are both Persons of that Ingenious and Liberal Education as I hope I shall not need to tell you what

it is to die, you have had a great deal of Time to think of it; you could not but think of this Issue of your Doings long ago, and therefore I shall spare my Labour of telling you what it is to die, and of that Eternity that you are to enter into; only give me leave in a few Words, in relation to both of your Professions, to say something to shew the Nature and Heinousness of this Offence, the Murther of the King, if you were not actually guilty of putting the King to Death; nay, admitting (in Charity) you had no intent to go as far as you did, you are by the Laws of Christ, and this Nation, guilty of High-Treason, in that you that are a Lawyer know very well, (and I speak it that you may lay it to your Heart in the Convictions of your Conscience. I must say to you as *Joshua* said to *Achan*, *my Son, give Glory to God, and confess*; and it would become you so to do,) you know very well it is the Law of this Nation, that no one House, nor both Houses, of Parliament, have any coercive Power over the King, much less to put him to Death; you know, (as you cited very well,) that the imprisoning of the King is Treason. You know both of you this is an undoubted Truth; the Rule of Law is, that the King can do no Wrong; that is, the King can do no Wrong in the Estimation of Law; he may do some particular Acts as a private Person, but he can do little Prejudice in his own Person; if he would hurt any it must be by Ministers, in that Case the Law provides a Remedy; if he doth it by Ministers they must Answer for it. The King of *England* is one of those Princes who hath an Imperial Crown; what is that? It is not to do what he will; no, but it is that he shall not be punished in his own Person if he doth that which in itself is unlawful. Now remember this when you took the Oaths of Allegiance and Supremacy; (I presume you both did so;) What was your Oath of Supremacy? It was this, that the King was the only Supreme Governour of these Realms; it goes farther, as he was Supream Governour, so he was the only Supream Governour, that excludes Co-ordination; you swear farther, that you will to the utmost of your Power defend the King against all Conspiracies and Attempts whatsoever; truly you that were a Lawyer when you had thus sworn your Fee could be no Excuse against what you had

sworn

sworn to. We know that the King, in his Politick or Natural Capacity, is not only *salus Populi*, but *salus Reipublicæ*. The Law hath taken Care that the People shall have Justice and Right; the King's Person ought not to be touched; the King himself is pleased to judge by the Law; you see he doth by Law question the Death of his Father; he doth not judge it himself, but the Law judges it. Mr. Peters knows very well he subscribed the 39 Articles of Religion; look upon them that were made in 1552, and upon those Articles that were confirmed in 13 Elizabeth; the King is there acknowledged to have the chief Power in these Nations; the meddling with the King was a Jesuitical Doctrine: This I speak, not that the King should or ought to Govern but by the Fundamental Laws of the Land; they that keep within the Bounds of the Law are happy; you that are a Lawyer know this in Point of Law, and you that are Divine know this in Point of Divinity. You both know the Truth of it, and when you have thought upon it, I hope you will reflect upon that horrid Crime, the shedding of Royal Blood. You see he had granted all those Grievances of the People, taken them away, secured them for the future; and at this very Time, when this horrid Act was done, you see he had granted all at the Desire of the People; he had made those Concessions, such, as (were it not in respect of others more than those that treated themselves) they thought was more than could be expected by the Nation. You that had a Hand in the King's Death, it falls upon you, the Guilt of it, because you were some of those Instruments that assisted those Persons that broke the Treaty; prepare yourselves for that Death which you are to die; it is a Debt which we all owe to Nature; if in this Case there is something of Shame comes to you, it is that you must take as Part of the Reward of your Sin. The only Work I have now to do is to pronounce the Judgment, and this is the Judgment of the Court, and the Court doth award, that both of you be led back to the Place from whence you came, and from thence shall be drawn upon a Hurdle, &c. and the Lord have Mercy upon your Souls.

C. Crier make Proclamation.

Crier.

Crier. O Yes, &c. All Manner of Persons, &c. andall Jurors and Witnesſes, are to appear at this Place to Morrow Morning at Seven of the Clock in the Morning, upon Pain of One Hundred Pound apiece. So God bleſs King Charles, &c.

15. Oct. 1660. At the Sessions-House in the Old-Bailey.

The Trial of *William Hewlet.*

Memorandum. That the Bill of Indiſtment againſt *William Hewlet*, alias *Howlet*, was found at *Hicks's-Hall*, Octob. 12. Instant.

Proclamation of the Court being made.

Clerk of the Crown. SET *William Hewlet*, alias *Howlet*, to the Bar; which was done accordingly.

Cl. William Hewlet, alias *Howlet*, Hold up thy Hand.. Thou ſtandeſt Indiſted of High Treason in the County of *Middleſex* by the Name of *William Hewlet*, alias *Howlet*, for that thou, &c. How ſayeſt thou, art thou Guilty of the High-Treason whereof thou haſt been Indiſted, and art now Arraigned? Or Not Guilty?

Hewlet. I am Not Guilty my Lord.

Clerk. How wilt thou be tried?

Hewlet. By God and the Countrey.

Cl. God ſend thee a good Delivery.

Set him aſide.

Octob. 15. 1660.

Clerk of the Crown. Set *Axtell* to the Bar, which was done accordingly.

Clerk. *Daniel Axtell*, Hold up thy Hand.

Axtell. Pray, my Lord, let me have Pen and Ink.

L. Ch. Bar. Give Mr. *Axtell* Pen and Ink.

Clerk.

Clerk. Daniel Axtell, these Men that were last called of the Jury are to pass, &c. if you will challenge them, or any of them, you must challenge them when they come to the Book before they are sworn.

L. Ch. Bar. Do you know how many you have Liberty to Challenge? Because I would not have you misinformed, 35 you may Challenge peremptorily, and no more.

Axtell. I thank your Lordship.

L. Ch. Bar. Unless you have any particular Cause; if so, you may challenge more.

Axtell. I confess I am wholly ignorant of the Law.

John Kirke, John Smith, Thomas Morris, Ralph Halsell, John Sherecroft, Francis Beale, Robert Cromwell, John Gallyerd, John Shelbury, George Rithe, were called, and by the Prisoner Challenged.

Thomas Bide, Charles Pitfield, Robert Sheppard, William Dod, Thomas Usman, William Maynerd, George Plucknet, Samuel Harris, John Nicoll of Hendon, Henry Marsh, Thomas Bishop, Thomas Snow, in all 12, were admitted, and sworn of the Jury.

Clerk of the Crown. If any Man can inform my Lords the King's Justices, &c,

Cl. Daniel Axtel, Hold up thy Hand. Look upon the Prisoner you that are sworn, and hearken to your Charge; you shall understand that the Prisoner stands Indicted, &c.

K. Council. May it please your Lordships, and you Gentlemen that are Sworn of this Jury, the High Court of Injustice that was Erected for Trial of the late King it had all the Formalities of a Court to put in Execution that Bloody Act; they had their *President*, their Council, their Chaplain, and their Guards; some of their Judges have been already tried, one of their Council, and their Chaplain. Now, my Lord, we come to the Guards, and this Gentleman at the Bar, that is now the Prisoner, he was Commander of that Black Guard, that Cruel and Bloody Guard: The Indictment is, *That he did Imagine and Compass the Death of the King;* there be several Overt-Acts that are mentioned in the Indictment as Evidences of that Imagination, as the Consultation to bring him to Trial, the actual bringing him to Trial, and the

the Bloody Execution upon the Scaffold ; our Evidence shall be this, that during the Time of the Trial the Prisoner at the Bar did Command the Soldiers in *Westminster-Hall*, himself did keep the Entrance into the Court ; and when *Bradshaw* did speak to the King, and told him he trifled away Time, and required his Answer to the Charge exhibited in the Name of the Commons of *England* Assembled in Parliament, and the good People of *England*, that a Noble Person in the Gallery there cried out, it was a *Lie* ; saying, that above half the Commons disowned it ; saying, where are these good People ? *It is a Lie, Oliver Cromwel is a Traytor* ; this bloody Fellow commanded the Soldiers to shoot her ; he did several times command and encourage the Soldiers to cry out, *Justice, Justice* ; and the last Day of that horrid Trial, called by them *the Day of Judgment*, he likewise commanded them to cry out, *Execution, Execution* ; and when some of them would not do it, he had the Valour to *Beat* them. My Lords, and Gentlemen of the Jury, if we prove any of these Particulars to demonstrate unto you that he was Guilty of Compassing and Imagining the King's Death, it is equal as if we had proved he did actually cut off the King's Head.

Mr. Bodurdoe, Mr. Nutley, Mr. Harrington, Sir Purbeck Temple, Mr. Sympson, Mr. Baker, Mr. Huncks, and Mr. Jeoner, Sworn.

Coun. Mr. Symp. Tell my Lords, and the Jury, who had the Command of the Soldiers during the Trial of the King in *Westminster-Hall*.

Sym. My Lords, (as I said before in the Case of Mr. Peters,) Col. Stubberd, and Col. Axtell, had the Command of the Soldiers below Stairs, near that which was called the *High Court of Justice*.

Axtell. I desire to know his Name, my Lord ?

Sym. My Name is *Holland Sympson*.

Coun. Did you see him there commanding the Soldiers ?

Symp. There was a kind of Hubbub in the Court ; there was a Lady (they said it was the Lady *Fairfax*) who at the exhibiting of the Charge against the King, said to be in the

the Name of the *Commons and People of England*, she spoke out aloud, and said, *it was a Lie*, that not half, nor a quarter of the People; *Oliver Cromwel* is a Rogue, and a *Traytor*; they called for a Guard, this Gentleman he was called, and brought up some Musqueteers, and commanded his Soldiers to Present and give Fire against the Lady, and commanded her to Unmask.

Axtell. What Lady was it? I desire to know.

Sym. She went by the Name of the Lady *Fairfax*; I know not whether it was so or no, it was the common Report it was she.

Cl. Mr. H. pray tell my Lord what you know of the Prisoner at the Bar.

Huncks. My Lord, to say positively any Thing of the Man touching his Command I cannot, but only that Morning the King died he came into the Door of the Room where Colonel *Phayre*, Colonel *Hacker*, *Cromwel*, and myself, were, (*Ireton* and *Harrison* lying in bed together in the same Room,) and then he stood at the Door half in and half out; I refusing to Sign an Order for Executing the King, as *Cromwel* ordered me, and some little cross Language having passed, saith the Prisoner at the Bar, Colonel *Huncks*, *I am ashamed of you, the Ship is now coming into the Harbour, and will you strike Sail before we come to Anchor?* This I appeal to yourself; but for crying out, knock them down, shoot them, I know not who it was; the Officers cried, Justice, and some of the Soldiers, but I profess I know not who it was particularly; but they cried, Justice, and then I fell a trembling, for I was afraid of the King; but these were the Words he used to me, *will you strike Sale, &c?*

Axtell. My Lord, I desire to ask him a Question.

L. Ch. Bar. Ask him what you will.

Axtell. If I am not in the right I hope your Lordships will direct me.

L. Ch. Bar. Go on.

Axtell. Col. *Huncks*, where was it?

Huncks. In a little Room in *Whitehall*, where *Ireton* and *Harrison* lay in Bed together.

Axtell. Do you know whereabouts?

Huncks.

Huncks. I think I can go to the Room again; I appeal to your own Conscience before all this People.

Axtell. By your Favour, Sir, the Room I perceive you know not, and truly, Sir, *My Lord*, if you please to give me Leave, because he appeals to my Conscience, I do appeal to the Great God, before whom it may be I may be Arraigned to give an Account of all my Words, Thoughts, and Actions, I do not remember that ever I had any Converse with this Man there, or met him there, or any of that Company there, that Day; he was a Stranger to me, but I wish that you (to save yourself being in the Warrant for Execution) do not make others a Peace-offering to save yourself; the Lord that knows my Heart I appeal to him; I appeal to your own Conscience, because you appeal to my Conscience, I never met you, nor saw you there.

Huncks. Have you done? Then give me Leave; you say you do not know me; I appeal to the same God, when *Cromwel* took upon him to have the Crown, have not I said, What have you got by being *Jehu*-like? *Lord, strike me Dead here if it be not true.*

Axtell. I will not reflect upon him; but because he hath appealed to my Conscience therefore I speak it; it is known Notoriously how *Jehu*-like you were, when you were one of the Chief Guards of his Majesty, One of the Forty Halberters that did oppose every Person then for the King; had I had Time, and had not been a close Prisoner as I was, there were Witnesses enough.

Coun. This after our Evidence is more proper.

Huncks. Spare me not *Col. Axtell.*

L. Ch. Bar. Take the Old and Ancient Course, let the Witnesses that are produced for the King be all heard, then give your Answer to all of them together.

Axtell. My Memory is not very good.

L. Ch. Bar. You have Pen, Ink, and Paper.

L. Ch. Bar. Mr. *Axtell*, is this all that you desire to speak to *Col. Huncks*?

Axtell. Yes, my Lord.

L. Ch. Bar. Have you any other Questions?

Coun.

Coun. My Lord, we have a few Words; he objects as if Col. *Huncks* were under a Danger; he is pardoned.

Axtell. I desire to ask him upon what Account these Words were spoke.

Huncks. My Lord, it was this; *Cromwell* having a Commission, (which I think I heard read here,) Colonel *Hacker* was reading of it, my Lord, *Cromwel* he comes to me, and by Vertue of that Commission he would have me to write a Warrant for Executing the King. I refusing to write that Warrant, (upon this which he speaks of that standing at the Door, if God blefs me I will search all the Doors at *Whitehall* but I will find it out,) I not doing it, I said, why should it be offered to me? Says *Cromwel*, thou art a Peevish Fellow; *Cromwel* fell a writing, as soon as ever he had done that writing, he gave *Hacker* the Pen, what *Hacker* writes, I know not; and upon my refusing, this Prisoner at the Bar said, Col. *Huncks*, I am now ashamed of you, The Ship is now coming into the Harbour, and will you now strike Sail before you cast Anchor?

Council. You observe the Course of this Evidence; there was a Warrant of Commission directed to Three Persons, *Hacker*, *Huncks*, and *Phaire*, for Execution of the King; *Cromwel* demanded of this Gentleman (Col. *Huncks*) that he should sign a VVarrant by Vertue of that other VVar-rant, and this Gentleman refusing it, the Prisoner objects this, that he to save himself doth witness this against the Prisoner; Gentlemen, he did refuse the Thing; have you any Thing to ask Col. *Huncks*?

Axtell. He says Col. *Phaire* and *Hacker* were there, I do not doubt but they will be so conscientious to vindicate me from all this Charge.

L. Ch. Bar. If it be any Thing that tends to your Defence that you will be heard afterwards; but have you any Questions to ask Col. *Huncks*?

Axtell. No more; I know nothing of it if I were to Die at this Bar presently.

Council. Sir *Purbeck Temple*, pray tell my Lords and the Jury your Knowledge of the Carriage of this Gentleman touching the Trial of his late Majesty.

Sir

Sir P. Tem. My Lord, being present, and engaged by some Persons of Honour, Servants of his late Majesty, to be present when that horrid Murther was acting before this Court of Justice, (as they called it,) I was present at all the Trials of the King, and very near him; I heard the King demand from *Bradshaw* by what Authority and Commission they proceeded thus strangely to Try him. Then I heard the Lady *Fairfax*, and one Mrs. *Nelson*, (my Sister,) after the exhibiting of the Charge in the Name of the Commons Assembled in Parliament, and the good People of this Kingdom, against *Charles Stewart*, King of *England*; I say I heard the Lady cry out from a Gallery over the Court, *Not half the People; it is false; where are they or their Consents? O. Cromwel is a Traytor.* Upon which I heard the Prisoner at the Bar cry out, Down with the Whores, shoot them; which made me take farther Notice of him; seeing him in *Westminster-hall* commanding the Soldiers there, I saw him the most active Person there; and during the Time that the King was urging to be heard, he was then laughing, entertaining his Soldiers, scoffing aloud, whilst some of the Soldiers, by his Suffering, and (I believe) Procurement, did fire Powder in the Palms of their Hands, that they did not only offend his Majesties Smell, but enforced him to rise up out of his Chair, and with his Hand to turn away the Smoke; and after this he turned about to the People, and smiled upon them, and those Soldiers that so rudely treated him: Then turning himself to *Bradshaw*, said to him and the Court, There are some sitting here (fixing his Eyes upon some Persons near *Bradshaw*) that well knew that if I would have forfeited or betrayed the Liberties and Rights of the People I need not have come hither, (or Words to this Effect,) but their Liberties and Rights are dearer and nearer to me than my Three Kingdoms, nay, than my Life itself; therefore I desire you to hear me, and remember that I am your Lawful King, that have done you many Acts of Grace and Favour.

After which this Person, Mr. *Axtell*, Prisoner at the Bar, commanded his Soldiers to cry out, *Justice*, which the Soldiers not readily obeying of him, I saw him beat Four or Five of them with his Cane until they cried out, (with himself,) *Justice,*

Justice, Justice, Execution, Execution; which made me turn to a Noble Lord, by whom I then stood, and said, pray my Lord take Notice, there is not above Four or Five that cry out *Justice, Justice*: I heard also of their spitting in the King's Face; and I think Nobodies Sufferings have been so like those of our Saviour Christ Jesus as His Majesties were. After this this Persons crying, *Justice, Justice, Execution, Execution*, a second Time, the Court proceeded to pass a Sentence; the which His Majesty pressed hard against, and told him, Sir, before you pass that ugly Sentence, (which I very well understand you are intended to do,) I desire you to hear me; hear me, hear me, passionately and not affectionately expressing it, which they denying the King, and the Noise of *Justice, Justice, Execution, Execution*, being repeated, they proceeded, and read that ugly Sentence of Death: After which His Majesty was immediately hurried away from the Bar into a common Cedan, where he was carried by Two common Porters; which Cedan I followed to the middle of *King's-street*, where I saw the Two Porters in Reverence go bare till the Soldiers (under the Command of the Prisoner at the Bar) beat them, and would not suffer them to go bare when they carried him. After this the People cried out, what do you carry the King in a common Cedan, as they carry such as have the Plague? God deliver Your Majesty out of such Enemies Hands. In which Street I was forced to leave the Sight of His Majesty, occasioned by the Injuries and Hurts I received in my Person from the Soldiers under *Axtel's* Command, they carrying him through the Streets shouting in Triumph. A short Time after I received an importunate Command from a Lady of great Honour, (a Servant of His Majesties,) that I would endeavour to find out where the Body of the *Martyr'd King* was, and to give her an Account where it then was: Applying myself to *Whitehall*, after Two or Threescore Intreaties, I was denied; but understanding that Money would do it, I gave the Persons then under the Command of Mr. *Axtell*, that then kept it, to shew it me, half a Piece, who in a scoffing Manner took me by the Hand, said, *If thou thinkest there is any Sanctity or Holiness in it look here*; where I saw the Head of that Blessed Martyr'd King lye in a Coffin with his Body, which
P
smiled

smiled as perfectly as if it had been alive; this is the sad Account of the Martyr'd King, and this sad horrid Prisoner, Mr. *Axtell*.

Axtell. My Lord, may I ask that Gentleman some Questions?

L. Ch. Bar. Yes, yes.

Axtell. My Lord, he seems to say that I bid the Soldiers cry out for Justice; he doth not at all say I was there in Command, but he saith a Lady, by report the Lady *Fairfax*, spake some Words, and that I should bid the Soldiers silence her; truly I desire to know the Certainty of the Place where I stood.

Sir P. T. My Lords, and Gentlemen of the Jury, I saw this Person standing within a Pike or two's Length, as I can guess it, (I remember the Place within a Yard of the Ground in *Westminster-hall*,) I do not say this Person sat in the Court as a Principal Officer that did then hold his Majesty Prisoner at the Bar; I did not say it was a Lady unknown, or reported to be such a one; but I said it was the Lady *Fairfax*, and my own Sister, *Mrs. Nelson*, and he cried, Shoot the Whores.

Axtell. He seems now to say I Commanded the Guards; I never was a Guard to his Majesty, or had any Thing to do in that Business, but it was wholly committed to a Company of Men I know not of. That Gentleman that spoke I have no Acquaintance with him, I think he did not know me at that Time.

L. Ch. Bar. Have you any Thing to ask him?

Sir P. T. My Lord, another Passage he puts into my Memory; when I did observe a Thousand of sad Faces, I saw none laughing but yourself, as if you had been carousing and entertaining the Soldiers. I do not charge you that you Commanded those Halbertees, but those *Redcoats*; you were all in *Red*: I saw you cane those Four or Five Soldiers I mentioned till they cried, *Justice, Justice*, with you; and that with the Powder in the Palms of their Hands they forced the King to rise out of his Chair, which you were much pleased with, and laughed at.

Axtell. I say before the Lord, before whom I must be judged again for this, I do deny this whole Obedience.

Griffith Bodurdoe, Esq, Sworn.

Gr. Bod. My Lords, and you Gentlemen of the Jury, I was at the Time of this sad Trial in *Westminster-hall*.

Axtell. Your Name, Sir, I beseech you?

Coun. His Name is *Mr. Bodurdoe*.

Gr. Bo. I say I was all the Time of the King's Trial in *Westminster-hall*; I was in a Gallery that I had out of my House where I then lived, just under and besides the House of *Commons*, and I do remember I saw this Gentleman there; I do think he was then called Lieutenant-Colonel *Axtell*, so far as I remember; truly I have not seen him since before this Day, nor have had any Reason to have known him, but that I saw him very Active in giving Commands to the Soldiers there: This Gentleman was keeping the Court, letting some in, and putting others out; he seemed to have Command of it; one Day (whether it was about some Passage, or their President's Speech, I know not) there was a Lady in the same Gallery where I stood, and some Muttering, *It is a Lie, not half the People*, or Words to this Effect, he the now Prisoner at the Bar standing below in the Court within the Bar, not far from *Dendy*, with some Five or Six Soldiers, upon this Muttering and Disturbance (as he apprehended) to the Court, he called to the Soldiers, saying, Shoot them if they speak one Word more; they did also present the Muzzles of their Muskets up to the Gallery; my Lord, by this we were very hush; after that immediately within half a Quarter of an Hour *Dendy* came to the Gallery from the Court to know who it was that made that Disturbance; but the Lady was withdrawn into my Chamber, and did not come out afterwards.

Axtell. Where was this, Sir?

L. Ch. Bar. What is it you desire?

Axtell. My Lord, where he saw me then?

L. Ch. Bar. *Mr. Bodurdoe*, you hear the Question.

Mr. Bod. There was a Gallery, which I do believe is yet standing, and the Court was just underneath the Gallery, and you were just underneath the Gallery, and Five or Six Soldiers with you.

Richard Young Sworn.

Council. What do you know of the Carriage of the Prisoner at the Time of the Trial.

Young. I was upon a Scaffold whereby I did see what was done in the Hall; I saw that Lieut. Col. *Axtell* was busie and very active in encouraging the Soldiers to say, Let us have Justice against the King.

Axtell. I desire to ask Mr. *Young* one Question; others say that the Word was, Cry for Justice, this Gentleman is pleased to make some Addition, *Let us have Justice against the King.*

Young. No, not against the King, but I conceived you meant against the King.

Axtell. I cry you Mercy, you do but conceive so.

Young. You were upon the Right Hand of the Hall, almost at the Corner near the Pavement; it could not be otherwise applied.

John Feonar Sworn.

Council. Speak your Knowledge of Col. *Axtell's* Carriage at the High Court of Justice.

Feonar. I had the Honour to wait upon the King as a Domestick Servant to the Time of his Death; that Day, which was the First Day the King was brought to his Trial, I did wait upon him among other Servants; we stood close to the Bar where the King was, some Three or Four of us; Col. *Axtell* was upon the Right Hand of us commanding the Guard to keep Things in Order when the Court was to be withdrawn; (the many Circumstances about the Lady *Fairfax* shall be omitted;) the *President* commanded the Prisoner to be withdrawn; with that Col. *Axtell* steps down before me to draw out his Guard; this I heard him say, Soldiers, cry for *Justice, Justice*, I was the next Man to him; and upon the last Day of the Trial he did come down in the same Manner, and bid the Soldiers cry out for *Execution, Execution*.

Axtell. I do desire a Question may be asked of that Gentleman; I must confess I did not know the Gentleman at that Time, tho' he said he knew me; he seems to say that at the First Day I encouraged the Soldiers to cry, *Justice, Justice*, and the Last Day, *Execution, Execution*; what Place was this in, Sir?

Feon.

Jeon. I tell you the King was brought from *Cotton-house* through a Guard that you managed of Musqueteers, and with a Guard of Partizans; besides, there was myself and others there: When we came up we got as close to the Bar as we could; you were passing up and down from above and below: When the Court was dissolved you stept down just before to draw your Guard to make ready, and to cry, *Justice, Justice*, and the Second Time, *Execution, Execution*, you were very near me, and then you cried, *Justice, Justice, Execution, Execution*.

Axtell. Are you certain? I have heard other Men, I confess, accused for this, some other Officers.

Jeonar. I did hear you, I do know you by Sight.

Council. You know him now to be the same Person?

Jeonar. Yes.

Samuel Burden Sworn.

Council. Tell my Lord and the Jury what you know of the Carriage of the Prisoner.

Burden. My Lords and Gentlemen, I do believe Col. *Axtell* knows me well enough, I was then under his own Command at *Whitehall*; there were some Cavaliers then in the Regiment; it was my Fortune I came into your Company, I wish I never had: You commanded more besides myself to be a Witness against the King, and Justice *Cook* took my Examination; you brought me in, you commanded the Guards that Time at *Whitehall* when the King was upon his Trial.

Axtell. What more?

Burden. And you commanded *Alisba Axtell* with a File of Soldiers to take a Boat and go down to the Common Hangman, that liv'd beyond the *Tower*, to execute the King; he is now *Shepard's* Serjeant in *Ireland*.

Axtell. My Lord, I desire to ask him a Question; he was pleased to say I desired him to be a Witness.

Bur. Yes.

Axtell. Where was it?

Burden. In the Court at *Whitehall*.

Axtell. My Lord, I have seen the Printed List of Witnesses against the King, and in that List you shall find no such Name.

Burden. I have been a Prisoner in *Dublin* by your Means.

Axtell. My Lord, I hope you will take Notice of that.

Councl. Burden, do you remember any of his Commands to *Web*, to draw up in the *Banqueting-House*?

Bur. He commanded *Web* to draw up in the *Banqueting-House* during the Time of Execution his own Company. I was one of his own Company then.

Coun. In Order to what?

Bur. For Execution.

Axtell. My Lord, is *Web* here?

Bur. He is in *Dublin*.

Axt. I wish he were here.

Edward Cook Sworn.

Cook. And it please your Honour, my Lord, the last Day of the Trial of His Majesty I came into *Westminster-hall*, coming where the Court was, I did see Col. *Axtell*, the Prisoner at the Bar, there with some Musqueteers.

Coun. What Day was this?

Cook. The last Day of His Majesties Trial.

L. Ch. Bar. Go on, Sir.

Cook. Standing there a little while, His Majesty came guarded with some Halberteers, when he came by the Soldiers that stood with Col. *Axtell*, His Majesty bowed, and afterwards put off His Hat, and went up to the Court; I could not know what *Bradshaw* said to him, I stood below; I heard him say he was brought by the Consent of the Commons and People of England, there stood a Lady above in a Gallery, crying out, *It is a Lie, where are the People, or their Consents? Cromwel is a Traytor*: Whereupon Col. *Axtell* standing by, saith he, what Drab is that that disturbs the Court? Come down, or I will fetch you down.

Mr. Nelson Sworn.

Coun. Tell my Lords, and Gentlemen of the Jury, touching the Discourse between you and the Prisoner at the Bar in *Dublin*.

Nelson. My Lords, and Gentlemen of the Jury, upon a Discourse with the Prisoner at the Bar in *Dublin*, Five or Six Years since, upon the Platform in that Castle we discoursed of the late King's having had several Reports, I desired to know of him who it was that executed the King, thinking he might inform

inform me ; he was pleased to tell me this, faith he, the Persons that were imployed in that Service you know them as well as I do ; truly, Sir, not I, said I, I saw them in Vizards, but not their Visage, as I know of ; yes, faith he, you do know them ; it is true, faith he, myself and others were imployed in that Affair, in order to the Execution, but there were several Persons came and offered themselves, out of a kind of Zeal, to do the Thing, but we did not think it proper to imploy Persons whom we did not know, but we made Choice of a couple of Stout Persons ; pray let me hear their Names, said I ; faith he, it was *Heulet* and *Walker* ; I desired to know their Reward ; truly, faith he, I do not know whether 30*l.* apiece, or between them ; I said it was a small Reward for a Work of that Nature ; truly, faith he, that was all.

Axt. You named one Man, I did not hear the other named.

Nelson. I named *Heulet* and *Walker*, we was one that managed the Execution, he told me so, and it pleased you, Sir.

Axtell. He is pleased to say that in *Ireland* there was such Conference, was any Body by ?

Nelson. No, Sir.

Axt. Did I Name any Body to you ?

Nel. You named those Two Persons.

Axt. Certainly I must invent them then, for I had no more Knowledge of them than any one here.

Nel. You told me you were one of them that had the managing of that Affair.

Council. My Lord, we have done with our Evidence ; those Particulars that were first opened to you have rendred the Prisoner much a blacker Person than we thought ; we leave him to his Defence.

Axt. May it please your Lordships, in the first Place, because I am ignorant in the Laws, I desire to know upon what Statute this Indictment is grounded.

L. Ch. Bar. It is grounded upon the Statute of the 25th of *Edward* the Third.

Axt. My Lords, I must acknowledge my Ignorance of the Laws, being a Thing I never studied, nor have the Knowledge of, but I have heard it is the Duty of your Lordships and the Judges to be of Counsel for the Prisoner in Things

wherein he is ignorant in Matters of Law, to make his just Defence; and therefore, my Lord, the Indictment itself being Matter of Law, if your Lordships please not to grant me Council to speak to Matters of Law, I humbly pray that your Lordships will be pleased, that for want of Knowledge, Formalities, Punctilioes, and Niceties of the Law, I might not undo myself: I have heard by a learned Judge, that though the Judge be of Council to the King, yet by his Oath he is also to be Councillor to the Prisoner, and stands as Mediator between the King and Prisoner; and therefore, my Lord, I shall beg that humble Favour, that wherein I shall fall short to make the best Improvement of my Plea in Matter of Law, that your Lordships will help me, and not take Advantages against me, as to the Niceties, Formalities, and Punctilioes of the Law; and, my Lord, this is a Resemblance of that Great Day, where Christ will be Judge, and will judge the Secrets of all Hearts, and of all Words, and of all Persons, and by him all Actions are weighed, knows all our Hearts, whether there be Malice, or how it stands in the Frame of each Heart before him in this Place; and therefore I hope there will be nothing by Pre-judging, or any Thing by Pre-cluding, to be so Black a Person as it seemed to be said against me. *My Lords*, I must shorten the Time, and come to speak as to the Authority.

L. Ch. Bar. As to what, Sir?

Axt. I speak as to the Authority by which, or under which, I acted; I humbly conceive, my Lord, under Favour, that I am not within the Compass of that Statute of the 25th of *Edward* the Third, for that Questionless must intend private Persons; *Counselling, Compassing, or Imagining the Death of the King*. But you know, my Lords, the War was first stated by the Lords and Commons, the Parliament of *England*, and by Vertue of their Authority was forced to be raised, and they pretended by Law that the Right of the *Militia* was in them; and your Lordships will remember in several Declarations and Acts that was mutually exchanged between His Majesty and Parliament; and, my Lord, that was the Authority, the Lords and Commons assembled in Parliament raised a Force, and made the Earl of *Essex* General, and after

after him the Earl of *Manchester*, of the Eastern Association; and after that Sir *Thomas Fairfax*, Lord General of the Forces; by this Authority I acted, and this Authority I humbly conceive to be legal, because this Parliament was called by the King's Writ, chosen by the People, and passed a Bill they should not be dissolved without their own Consents; that the Parliament was in Being when the Trial was, and a Question whether yet legally dissolved.

In the Fourth Place, they were not only owned and obeyed at Home, but Abroad, to be the chief Authority of the Nation, and also owned by Foreign States and Kingdoms, sent Ambassadors to that Purpose; under them did all the Judges of the Land Act, who ought to be the Eye of the Land, and the very Light of the People, to guide them in their right Actions; and I remember the Judges upon Trial, (I have read it of High-Treason,) Judge *Thorp*, *Nicholas* and *Fermin* have declared it publickly, that it was a lawful justifiable Thing by the Law of the Land to obey the Parliament of *England*. My Lord, it further appears as to their Authority over the People of this Nation, Petitioning them as the Supreme and Lawful Authority: And, *my Lords*, as I have heard it hath been objected, that the Houses of Lords and Commons could make no Act, truly, my Lord, if you will not allow them to be Acts, though they intitle them so, call them so, and obeyed as so, by the Judges, Ministers, and Officers of State, and by all other Persons in the Nation, yet I hope they cannot be denied to be Orders of Parliament; and were they no more but Orders, yet were they sufficient, as I humbly conceive, to bear out such as acted thereby. And, my Lord, the Parliament thus Constituted, and having made their Generals, he, by their Authority, did Constitute and Appoint me to be an Inferior Officer in the Army, serving them in the Quarters of the Parliament, and under and within their Power; and what I have done, my Lord, it hath been done only as a Soldier, deriving my Power from the General; he had his Power from the Fountain, to wit, the Lords and Commons; and, my Lord, this being done, as hath been said by several, that I was there, and had Command at *Westminster-hall*, truly, my Lord, if the Parliament Command
the

the General, and the General the Inferior Officers, I am bound by my Commission, according to the Laws and Customs of War, to be where the Regiment is; I came not thither Voluntarily, but by Command of the General, who had a Commission (as I said before) from the Parliament. I was no Counsellor, no Contriver, I was no Parliament-man, none of the Judges, none that Sentenced, Signed, none that had any Hand in the Execution, only that which is charged is, that I was an Officer in the Army; if that be so great a Crime I conceive I am no more Guilty than the Earl of *Essex*, *Fairfax*, or the Lord of *Manchester*.

Judge Mallet. You are not charged as you were an Officer of the Army.

Axtell. My Lords, That is the main Thing they do insist upon: My Lord, I am no more Guilty than his Excellency the Lord General *Monk*, who acted by the same Authority, and all the People in the Three Nations; and my Lord, I do humbly suppose, if the Authority had been only an Authority in Fact, and not Right, yet those that acted under them ought not to be questioned; but if the Authority commanded, whatsoever Offence they committed, especially that that guided me, was no less than the declared Judgment of the Lords and Commons sitting in Parliament; they declared that was their Right as to the *Militia*; and having explained several Statutes of *Henry* the 7th, wherein the King having enterchanged Declarations with the Parliament, the Parliament comes to make an Explanation on that Statute; and, my Lord, it is in *Folio* 280, wherein they do positively expound it, and declare it as their allowed Judgment. To clear up all Scruples to all that should take up Arms for them, saith the *Parliament* there, as to the Statute of 11th of *Henry* the 7th, Chapter the First, which is printed at Large, comes there to explain it in General, and comes here, *Folio* 281, and gives this Judgment; *It is not, say they, agreeable to Reason or Conscience, that any one's Duty should be known, if the Judgment of the High Court of Parliament be not a Rule or Guide to them.* In the next Place, this is the next Guidance, Rule, and Judgment of *Parliament*, upon the Exposition of this Statute, and as they have said in several Places, (was it not too much to take

take up your Lordship's Time,) they are the proper *Judges and Expounders of the Laws*. The High Court of *Parliament* have taken upon them to expound the Law, and said; that we Lawyers will give the Meaning of the Text contrary to what they have Expounded the Meaning under their Hands: In the same *Declaration* His Majesty is pleased to quit that Statute upon which I stand Indicted, the 25th of *Edward the Third*, where they do, my Lord, expound that very Statute in the Declaration made in 1643, *Folio 722*. I come to the declared Judgment, wherein they did positively say, that the Persons that do Act under their Authority ought not to be questioned as Persons Guilty, *Folio 727*, that is the Exposition that the Lords and Commons Assembled in *Parliament* doth make upon the Statute.

Council. My Lord, this is an Argumentation of Discourse in Justification of his Proceedings, we desire to know what he will Answer as to the Plea.

Axtell. My Lords, I have this further to say, that if a House of Commons Assembled in *Parliament* may be guilty of Treason, (for the Truth is, if I acted Treason that acted under the Authority of the Lords and Commons in *Parliament*, and of the Commons in *Parliament*,) then doubtless they must begin the Treason: If the House of Commons, who are the Collective Body and Representation of the Nation, all the People of *England*, who chose them, are guilty too; and then where will there be a Jury to try this? Concerning the Commons alone I have been over-ruled.

L. Ch. Bar. If you have any Thing to say to the Lords and Commons, Answer to your Charge; your Charge is nothing of the Lords and Commons, but what you acted when the House was broke and forced.

Coun. You cannot but know that there is nothing charged against you, for which you can so much as pretend an Authority of the Lords and Commons; you know before you could do this horrid Murther, you were the Persons that destroyed the Lords and Commons both; indeed you Ravel in a Business, and to make People gaze upon you without any Ground.

Axt. I am upon my Life, I hope you will hear me patiently.

L. Ch. Bar. God forbid but we should.

Axt. I do desire to assert my Authority; if any Thing was done upon the House of Lords and Commons I do not come here to justify their Actions, I was not concerned in it. My next Plea is this; that if a House of Commons can be charged Guilty of *High-Treason* as a Community, the distributive Body must needs be Guilty.

Court. If there should have been 20 or 40 Men come out of the House of Commons, and should Murther a Man, they must Answer for that; it is not the Community that can do such an Act of Treason: These Persons that you call a House of Commons, there was but 26 of them, and these must be the People; this is the State of the Case; and when you have thrust out thrice the Number of those remaining, only those can serve your Turn.

L. Annesly. Mr. *Axtell.* I am very sorry to see you in that Place, and it troubles me as much to hear you vent that for an Authority, which you know yourself was no Authority; you would now for your Defence for Life, (and it is Reason you should make as full a Defence for Life as you can,) you would shelter yourself under that Authority, which I am sorry I must say were one of the greatest Violators of. You cannot forget how near a Close of this Bloody War, by the Mercy of God, this Nation was, when the Army interposed, whose Trade it was to live by War; when they had felt so much of the Sweet of War, they would not suffer the People to enjoy Peace, though the Lords and Representatives in Parliament had agreed to it; a Treaty was begun, Terms of Peace propounded and agreed to; this you cannot forget, and will have no need of Notes or Books to help your Memory: When the People Groaned under the Miseries of War, and Thirsted after Peace, then came up the Army, who were Servants to the Parliament till that Time, taking upon them the Authority; (you cannot forget that yourself was one of the Number that came to offer Accusations against the Majority of the Commons House, calling them Rotten Members;) the House of Lords was not then suffered to sit, they would not join in that

that Ordinance that was preparing for the Trial of the King; when the Lords had refused they were no longer fit to be Lords neither; then comes in a new Authority, which we never heard of before; a Remnant of the House of Commons joining with the Army, that had driven away the greatest Part of the House of Commons; (for in all Assemblies and Courts the Major Part must determine, or no Determination,) after this Course was taken, then is an Act set on Foot, they take upon them by Votes of their own to be the Parliament of *England*; that the Supreme Power of the Nation is in the Representatives of the People; who were they? Those few only that remained; almost all the Cities, Counties and Burroughs of *England*, had none left to represent them, they were driven away by Force; then was this Act of Parliament (such an Act as was never heard of before) set on Foot and passed as an Act by a few of the House of Commons; if you can plead this for your Defence, this is the Act that you must shelter under. But you know the Lords and Commons had unanimously resolved for Peace, and so agree with the King: If this Act will be any Defence, you may plead it to the full; and this is all you have to say, therefore go upon no foreign Matter.

Ans. If it please your Lordship, that worthy Lord that spoke last is pleased to say, that I was one of the Persons that did accuse some of those Members of Parliament; truly, my Lord, I never did come to the Commons Bar but once, presenting a Petition; and for my Hand either in Charging any of the Members, or Secluding any of them, I never had any Hand in that Matter; this is all to that Part. Next, I humbly conceive here I must ground my Bottom, and if I perish, I perish by a Judgment in a Parliament; my Commission that did Authorize me to obey my General was given me when the Lords and Commons sate in Parliament; I had no other Commission than this: My Lord *Fairfax* commanded the Army after the King's Death by the like Commission; I did but my Duty in going to my Regiment; the General saith, go to such a Place, stay there; if I refuse, by the Law of War I die; if I obey, I am in Danger likewise; I say my Commission was given me by the Lords and Commons, and there-

therefore I hope, my Lord, that what I have said and offered in that Particular is not Truthless, but of Weight.

Court. The Effect of your Commission is only to make you an Officer.

Axtell. My Commission bears Date the 27th of *March* 1648, Ten Months before the King's Death; we had no other Commissions, therefore I humbly conceive the Question will be this in Point of Law, and I humbly desire it may be truly and fairly stated by your Lordship, and these Honourable Judges, that whether a Man being guided by the Judgment of the Lords and Commons Assembled in Parliament, and having declared their Judgments and Exposition of that Statute of the 25th of *Edward* the Third, and Acting only by that Judgment of Parliament, and under their Authority, can be questioned for Treason. That, my Lord, is a Question that I do humbly think is a Point in Law; and that you will please fairly and truly to state it, whether I am within the Compass of that Statute whereupon I am Indicted.

Council. My Lord, we do not charge him with any Thing that he did act under the Colour of his Commission, or with any Thing he did before that, but that which we charge him with are the Acts that he did at the Trial of the King; shew us your Commission from the Lords and Commons Assembled in Parliament for Trial and Execution of the King; you say something, we do not charge him for any Thing done by Vertue of that Commission, but with those violent Acts that he did in encouraging the Soldiers to cry, *Justice, Justice, Execution, Execution*, and all those other violent Actions of his own malicious Heart against the King. We humbly beseech you he may answer to that which is the Charge against him, and that is, the *Compassing and Imagining the Death of the late King*, and his declaring that by those Overt-acts that we have proved. My Lords, we desire that the Prisoner at the Bar may remember that he is not Indicted for Levying War against the King; if so, then that, Sir, which you offer might be given as a Plea, and we should have spoken to it; but you are Indicted for *Compassing and Imagining the Death of the King*; and that which we have given in Evidence were the subsequent Overt-acts to prove the same.

Axtell.

Axtell. I hope you will not think it much to give me some more Freedom for my own Defence for Life; My Lord, I must needs say, though there was a Force on the Parliament, I am not to justify it; I was no Lawyer, no Statesman, no Counsellor, but a Soldier; and if the General, who had a Commission from the Lords and Commons, and that some Years before and after the King's Death, be not Guilty of Treason, what I did was by Command from my General; and though I am charged with being in Arms in *Westminster-hall*, and at such and such a Place, yet it was not a Voluntary Act, for I was bound to obey my General; I do humbly pray that I may have your Lordship's Judgment in this Point; I must say it was from the Sense of their Exposition of the Law, and of the Statutes, and from the Authority, that every one took up Arms for, and served them, and obeyed either the one General, or the other; I say, it was under this very Authority, and this must needs acquit me from all the Guilt that is laid upon me.

L. Ch. Bar. You put yourself upon the Judgment of the Court upon this which you call a Point in Law. First, It is manifest that there is no Excuse at all for Treason; no Man by his Commission can warrant the doing of an Act which is Treason: You must take Notice of the Authority, whether it be good or no; your Commission was not to put the King to Death, but on the contrary, to preserve the King's Life. The Lords and Commons, what they did we do not meddle with; the Reason and Ground of what they did was the Preservation of the King's Person, as well as the Maintenance of the Laws and Liberties of this Nation; they made Protestations, Declarations, and Oaths, for the Preservation of the King's Person; and you could not but take Notice of those Things: Now whereas you go about to shroud yourself under the Lord *Fairfax*, he had no such Power, and therefore you can challenge no more than he had; and to what you say concerning the Judgment of the Parliament, there will be a great deal of Difference between a particular Case and a Declaration of Lords and Commons; there is nothing you have said that hath any Thing of Force, and God forbid you should make use of it; but I must tell you, you could not but notoriously know all those

those Transactions that were in the Army, what the Army had done, that they came up with Swords in their Hands, and turn'd out whom they would; you saw what the Lords and Commons had done, that the Treaty was ready for his Birth; and then you came up with your Mermidons, with Force and Arms, and exclude the greatest Part of the Members, and then the Lords were laid aside: It is true, the Lords were not wholly dissolved, but they would not suffer them to Sit, nor Act at all, and this was apparent to the Nation. If Men, under Colour and Pretence of such Things, namely, that a few Persons, (for so they were,) but an Eighth Part of the House of Commons, permitted to remain, and of that Eighth Part (which was but 46 in the whole) there was but 26 that Voted that Act which you say you obeyed: But you say you obeyed the General; you are not to obey the General in this Case; for the Facts that you have committed are not charged as Acts of War; you are not charged for bringing the Soldiers in, but for those violent Actions that you were guilty of there; you made the Soldiers cry out, *Justice, Justice, Execution, Execution*; you sent officiously for a *Hangman* to come down to you; your Commission gave you no Power for this; the Death of the King you know how it was designed; you know the Act for the bringing in of that Commission (as they call'd it) to sit in Justice was after the House of Commons was reduced to a very small Number, and some of those dissenting too; what you did act under that Authority, if you can justify it, in the Name of God say so; but do not engage the Nation in those Things which they abhorred, and by the Mercy of God are laid asleep.

Mr. Justice Foster. You begin at the wrong End, you ought, as all Men ought to do, first to Answer the Matter of Fact, and not to put in these long dilatory Pleas till you have answered the Matter of Fact, whether those Things charged on you be true or not; then if you have any Thing further to say for yourself by Way of Excuse, it will be the Time to speak, and not before.

Ans. May it please your Lordships, I humbly conceive I am upon that Method to the first Part of the Witness; they accuse me for commanding my Soldiers in *Westminster-ball*, then I must

must prove my Authority, which I have been about to do, and declared the Judgment of Parliament.

L. Ch. Bar. The Court have heard you with a great deal of Patience, and that which is not at all to the Business.

Axtell. I only refer this as to the Authority; (I humbly conceive you will give me Leave to insist upon this, and how far I may improve it for my own Defence;) here is the Commission by which my Lord *Fairfax* acted, and that after the King's Death, and I acted by the same Authority he did; I had not been at *Westminster-hall* but on the Command of the General.

Court. Doth that Commission Authorize you to cry *Justice, Justice?* And to look up and down to get Witnesses against the King? Is that in your Commission?

Axt. I am to serve and obey all my Superior Officers, that is my Commission; if I do not I die by the Law of War.

Court. You are to obey them in their Just Commands: all Unjust Commands are Invalid. If our Superiors should command us to undue and irregular Things, (much more if to the committing of Treason,) we are in each Case to make Use of our Passive, not Active, Obedience.

Axt. Under Favour, it is not proved, *that I did either Com-pass or Imagine the King's Death*; that is Matter of Fact.

Court. Let us try that.

Ax. My Lord, I did nothing but as a meer Soldier; I had Authority from the General; I would leave this before your Lordships and the Jury, that what I have done hath been by Authority of the General.

L. Hollis. Sir, a Word to you: if you could satisfy the Court that you had received a Commission from the General to do those Things with which you stand charged it were something, then were it proper for you to plead it, and the Court to judge. Pray take this along with you, the General gave you no such Command; what you are charged with in the Indictment is, *for Compassing and Imagining the Death of the King*, and that by such and such Overt-acts, as making your Soldiers cry out *Justice and Execution*; for being active and forward in sending for the *Executioner*, and such other Acts, prove these are in your Commission, and you say something: I am sure you cannot be ignorant that that very Authority that you now do

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urge to give Life and Power to your Actions, that you destroyed it, laid it in the Dust, acted contrary to it several Ways; when the Parliament protested against fetching the King from *Holmby*, as they did, when they went on proceeding in the Way of Peace, then came you up to the Bar, I think you yourself,) and charged some of the Members; first 11 as Rotten Members, and these Men were forced away; this you know your General had no Commission to do; and this you know was a Violation of that Power that gave our General the Commission. After that, when the Treaty was brought on in the *Isle of Wight*, when there was great Hopes of Peace, then you knew the King was hurried thence by Force, which the Parliament protested against. After that, when both the House of Commons and Lords came to consider of one Particular that passed, they resolved that it was sufficient Ground to proceed on for the Settlement of Peace, then did you fall upon these Houses, and tear them in pieces, and throwing out above 200, suffering only about 40 to remain, and they were glad to send for One Member out of Prison to make up a House. That which you say of the Supreme Authority, and that by Vertue of which you did act, it shews that you did not at all go by any Authority, but you followed your own Lusts; and therefore do not sew these Fig-leaves together, which will stand you in no stead; if you would apply yourself to answer that which you were charged with it were something.

Axt. I do desire to have no more Interruptions than is meet in making my own Defence. My Lord, here are many Things by Way of Motive urged to the Jury which is not within the Charge, I desire I may have that fair Play, *that nothing may be urg'd but what is in the Charge.*

L. Ch. Bar. You give the Occasion, Mr. *Axtell*; keep to the Matter; and you shall not be interrupted.

Lord Hollis. I shall be very sorry to urge any Thing against you which doth not necessarily follow; for what you say touching your Authority, I shall shew you have no Authority.

Axtell. My Lord, I have the same Commission as the General; what I did was not of mine own Head, I had a Command: As for all that hath been charged against me I shall say this, I was none of the Court, I did not fetch the King from
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from the *Isle of Wight*, nor advis'd, compass'd, or imagin'd his Death, or sentenced him to Death, or signed the Warrant for his Execution, or executed him; I am none of them, my Lords; and therefore whoever did make any Breach upon the House of Commons, the were Grandees, Persons of a greater Quality; I was an inferior Officer; I was never at the House Bar, but upon presenting One Petition to the Parliament from the Army. I shall now come to speak to the Evidence which hath been given particularly against me; and the First, my Lord, is Mr. *Simson*, he saith I had the Commands of the Guards at *Westminster-hall*: My Lords, I have told you already, shewn you by what Authority I came thither, and that I ought not to refuse; if I had, according to the Laws of War I must have suffered Death; and that is all as to Mr. *Simson*, only that a Lady (he knows not who) spake something there.

L. Ch. Bar. He saith he heard you bid the Soldiers give Fire against the Lady.

Axt. My Lord, I must say, if there was any Lady that did speak, who she was I know no more than the least Child here; but, my Lord, to silence a Lady I suppose is no Treason; if a Lady will talk impertinently it is no Treason to bid her hold her Tongue.

L. Ch. Bar. A Lady was speaking pertinently enough, when she heard *Bradshaw* say to the King, such a Charge is exhibited, a Charge of High-Treason against him in the Name of the Commons Assembled in Parliament, and the good People of England; she said, That was a Lie, not half nor a quarter of the People of England; that *Oliver Cromwel* was a Traitor; then you took upon you to command Soldiers to fire at her, and accordingly they levelled the Muzzles of their Musquets towards her.

Axtell. My Lord, as to that Particular concerning *Oliver Cromwel*, or any other Words concerning the Court, I understand them not; but if any Interruption was made, to preserve the Peace, to desire a Woman to hold her Tongue is no Treason. To the next Particular, wherein Col. *Huncks* saith, at a Door of a certain Lodging where *Ireton* and *Harrison* were in Bed together, he saith, that upon his Refusal to sign the Warrant for executing the King I said to him, Col. *Huncks*,

I am ashamed of you, the Ship is now coming into Harbour, and will you strike sail before we come to Anchor? Truly, my Lord, I think all that amounts to nothing; if it were so, which I deny it; for to bring the Ship into Harbour, what is that? There is no Person named, Fact named, nor Design named; and I appeal to my Conscience, I remember not the Time, Place, Person, or VVords. and I can call for Col. *Phayre* and Col. *Hacker*, who were there; for I desire Things may appear right, I desire they Two Persons may be called for their Evidence in that Point.

L. Ch. Bar. They both are in the same Condition, Col. *Hacker* in the Prison behind you, Col. *Phayre* in the Tower; Mr. *Axtell* you know the Strength of one Affirmative VVitnefs; I saw such a Man, and heard such a Man say, &c. is more than if Twenty should witness they stood by, but did not see him, or hear him speak.

Axt. My Lord, he saith only this, I saw you at the Door going into *Ireton's* Chamber, and said, *Will you strike Sail, &c?* Truly, my Lord, he doth not say what, or how, or any Thing I meant; there must be according to Sir *Edward Cook's* 7th Book of his *Institutes*, that Oracle of the Law, he saith, *That Evidence ought to be as clear as the Sun at Noon-day*; all that you can say is this, it must be a wide Inference, a large Inference; I conceive there is nothing in these Two VVitneffes, and if the Two Prisoners were here they would clear me in this.

L. Ch. Bar. If by Law you could have had them, you should; but I fear if they could be admitted they would not be to your Advantage.

Axtell. Then, my Lord in the next Place, Col. *Temple* is pleased to say, that the Lady *Fairfax* saying something against the Court, (which in truth, as I said before, I know not who it was, or what the VVords were,) he saith. I bid Fire against them; I did nothing but what I was commanded upon Pain of Death, to preserve Peace, and in Pursuance of that Command from the Superior Officers of the Army, Silence was required, and that was all that was done. I suppose where a Man is commanded to keep Silence, as the Sheriff is required to keep all at Peace in a Court, if he restrain a Person that will not be quiet, it is not Treason in him, nor in me, in this Particular. My Lord, in the next Place Mr. *Temple* is pleased to say, that

I stood upon the Pavement laughing, while others sighed; truly, my Lord, I know not whether I saw the Gentleman, or no; certainly Smiling is no Treason, if I did so, though I believe I had as great a Sence that Day as many other Persons there, this is the Sum of that he saith; only he further adds, that I bid the Soldiers cry for *Justice*, truly, my Lord. —

L. Ch. Bar. Because it may be your Notes are short, I will acquaint you there was a little more in it; he said you bid the Soldiers cry out, *Justice, Justice*; and they coming not very readily to it you struck some of them till they with yourself cried out, *Justice, Justice*, till they with yourself did it.

Axt. My Lord, to that I answer, that in the Hall there was some kind of People did set up a crying some kind of Words, and may be some of the Soldiers might cry so too; I might command them to hold their Tongues, and to say *I'll teach you to cry Justice*, and so the Gentleman standing by might believe I was the Person that bid them do it: Truly, my Lord, this is all that the Gentleman says, which I humbly conceive is nothing, because he does not say against any Person; and therefore, my Lord, I do hold to that Maxim in the Law, as Sir *Edward Cooke* holds, (that Man of great Parts of Learning and Knowledge,) *That in Matters of Treason, wherein a Man is the highliest concerned in his Life and Posterity, there ought not to be construed against him Inferences or Presumptions, or Straint of Wit*; there is no more in this, and this is all that I say in this Particular. In the next Place, Mr. *Temple* is pleas'd to say, that after the Court had sentenced his Majesty he was hurried away in a *Cedan*; truly, whether he was, or not, I know not; there was a Guard of Halberteers, whereof Col. *Huncks* was one, and several others, as I have heard; they were Select Guards of his Majesty, guarding him from Sr. *James's* to other Places; how he came to be hurried I know not, it was not by me; and whereas he says during the whole Trial I was there, truly I think I was there by Command of my General, by Authority of the Lords and Commons.

L. Ch. Bar. You speak this that the Jury may understand you did it by Command of your General. Do you mean by Express Command?

Axt. I did not move a Day but by Special Command.

L. Ch. Bar. By whom?

Axtell. The Lord *Fairfax* gave his Orders every Morning to his Adjutant-General, or Major-General, and they issued them out to such and such Persons as he appoints.

L. Ch. Bar. Who gave these Orders out?

Axt. The Lord *Fairfax*; we did all under him.

L. Ch. Bar. You had not the Order immediately from him.

Axtell. The Major-General had.

L. Ch. Bar. What Major-General gave you that Order?

Axtell. There was *Cromwell* and *Ireton*.

L. Ch. Bar. The Lord *Fairfax* gave you no immediate Commission.

Axtell. He have my Superior Officers.

L. Ch. Bar. How do you know that?

Axtell. My Lord, because they told me so, it was by his Command.

L. Ch. Bar. The Question is now understood.

Axt. The next Person that speaks is Mr. *Bodurdoe*, and he says that I commanded the Soldiers at the King's Trial; and that a Lady that was speaking was commanded Silence, to this Purpose; truly, my Lord, this is but the same as before.

L. Ch. Bar. You said *Shoot* too.

Axtell. No, (my Lord,) I said not any such Word, or any Thing like it; I heard there was an Officer went up and intreated her to be silent; I say it is the same with the former, it is no Treason to desire one to be silent. My Lord, the next Witness that speaks in Evidence against me is Mr. *Young*; he says this, I bid the Soldiers cry for *Justice*; it is very like that Person, as well as Mr. *Temple*, might see me in the Croud speaking to make the Soldiers quiet, I might repeat the Words that the People said, repeat the Word *Justice*, or some such Word, as the Peoples Words.

L. Ch. Bar. Remember how he repeats them; he saw you active in setting on the Soldiers to cry *Justice*.

Axt. If I have taken them right; one says he heard me say such Words as *Justice*, and that he saw me strike Two or Three Soldiers; if in the Tumult such a Word should be started, I hearing of them I might strike those Soldiers that said *Justice*, *Justice*, and might repeat the Words, I'll give you

you Justice, and so strike them, that is a good Evidence that it might be a Repetition of their Words, and not any of mine own: They both speak as to the Word *Justice*, but here was not *Justice* mentioned to any Person; I might repeat their own Words, and chastise them for those Words; besides this, (tho' I do not say the Word was spoken by me,) if the Word *Justice* had been spoken, my Lord, I hope it is no Treason to say, I desire Justice; *it is God's great Attribute, it is God's Ordinance, and that can be no Treason*. I have read in Law-Books, (though but lately,) and I cannot find that the Word Justice should be made Treason; then there is no Person to whom that adjunct doth belong. The next Evidence, my Lord, is Capt. *Jeonar*, he saith I commanded a Guard; truly several Regiments took their Turns as they were commanded by the General, and I, as an Inferior Officer, was there; but that is no more than what was said before, it was done by the Authority of the General; if I had not done it I had died by the Law of War: He saith, there was a Cry for Justice; I can say nothing more than I have formerly said; it may be in the Tumult the Soldiers might say so, and I chastising of them, and repeating that in my Chastisement, they might think they were mine own Words.

L. Ch. Bar. Mr. Axtell. I would help your Memory; he swears the last Day you encouraged the Soldiers to cry, *Execution, Execution*.

Axt. For that Particular I am coming to it, (*I thank your Lordship for helping me*;) my Lord, for that of Execution, truly I cannot say whether I was there that Day or no; one Day I was commanded to be there with some Companies in *Westminster-hall*, but whether I was there any more than that one Time is the Question: Admit I was there that Day, I was never there but when I was commanded; when the Colonel that commanded the Regiment was there, I, as an inferior Officer, ought to be there: I was there by a Special Order, and not by a Voluntary Act of mine own, and so it cannot be *Compassing the Death of the King*. For to the Word *Execution*, what can be the Sense of this Word? *Execution* is a single Word; those People that started the Word *Justice* might put it in the Heads of the Soldiers, which I might strike to command

mand Silence; they likewise might upon the same Account cry out *Execution*, and so to hinder all Tumults, and Hubbubs, and the like, in the Place; I might repeat their Words in correcting of them for it; I might say, *Ile Justice you, Ile Execution you*: But, my Lord, this Word *Execution of Justice*, it is a Glorious Word; not that there can be an Inference that what they did I should say was Justice, or to approve of any Thing that they did, but only in General *Execution of Justice*, which, my Lord, relates not to any Person; possibly the rude People might be speaking (as hath been said before) in that Manner, and the Soldiers might take it up, and I might reprove them, and make Use of their own Words by Word of Repetition. *I will Justice you, I will Execution you.*

My Lord, in the next Place I do observe to speak that of Mr. *Burden* he did observe to your Lordships and the Jury, my Country-men, my Brethren, with whom are the Issues of Life and Death, for whose Life they must answer before the Lord as to Righteousness, Judgment, and Equity; I say, my Lord, as to Mr. *Burden*, he tells you, that for my Sake he was Imprisoned; saith he, *I have suffered much by him*; and speaks it with much Indignation of Spirit; I have suffered, and been imprisoned, by him, and afterwards he comes to speak his Evidence; how much his Evidence may be of Force I desire, my Lord, the Jury may consider of that; and then he comes and saith, I commanded a Guard at the *Banqueting-house* in *Whitehall*. Truly, my Lord, the Lord *Fairfax* commanded a Regiment to quarter there, and I, as an Inferior Officer, might be there: In the next Place, my Lord, he saith, I sent *Elisha Axtell* to fetch the Hangman; truly, my Lord, I wonder this Person is come from *Ireland*; (if this were so,) the Authority there would not send that Person with his great Evidence, as well as this Person; he may as well charge any Person with this as me: It is evident, *Ireton*, *Harrison*, and *Cromwel*, they did all amongst themselves; I never was with them, amongst them, received no Command from them, nor obeyed them; nor did any Thing but what I had Command for from the General, who, by the Law, I was bound to obey as a Soldier. I shall only observe one Thing more; this Person being so long a Prisoner, to Extricate himself out of his Imprisonment and

and Chains, poor Man! he may say more than is true. I wonder he should say I sent for the Executioner; I never knew of any Circumstance touching Consultation about his Death, or took him Prisoner. When they sent to me to be one of his Guard, I never would go; I humbly conceive there is nothing sticks upon me in this, considering the Circumstances, and the Words of the Person that spoke them.

My Lord, the next Person that speaks against me is Mr. Cooke, and he saith he heard me say, *Thrust that Lady down that made a Disturbance in the Court*, or Words to that Purpose; it is probable there might be a Desire of Silence. The next Exidence is Lt. Col. Nelson, he saith, that upon a Discourse—

L. Ch. Bar. I would put you in Remembrance, lest you should forget what Sir Purbeck Temple said, that by Leave of Persons under your Command *he saw the Body of the King*. It is only a Circumstance.

Axtell. I have heard there were Chirurgions, Physicians, and Halberteers, appointed by whom I know not; they had the Care of such Things, and had the keeping of him; he was locked up by them; no Body could come in but by them; I never had a Key; possibly Col. Temple might come to me, quartering there, and desire me to speak to some Persons that had the Charge of it to let him in; whether I did or no I cannot remember; but if it were so I hope it will not amount to Treason. The last Thing given in Evidence against me is Mr. Nelson, he saith, that upon some Discourse between us, he was asking what Person cut off the King's Head, and that I should say *Hewlet*, &c. Truly, my Lord, I was never privy, and I appeal to Mr. Rushworth, if he were here, who was Secretary, if ever he saw me in any Council, to advise, or act, or any Thing in that Kind, in relation to the King's Trial, Sentence, or Execution; for me to know the Person that was imployed about the Execution it is strange, when (as I said before) they did all within themselves. I had no Knowledge thereof, and medled not with any Thing but within my own Sphere as a Soldier under my L. Fairfax, by Authority of Parliament. For naming any Person, truly, my Lord, it would be a wonder to me that I should name any Person to go to do any Person that Wrong and Injury, to say he was the Person; I must invent it,

it, for I knew nothing of it. But by common Fame up and down the City it was said to be another Person; but who it was I cannot say, my Lord: but to all this that hath been said against me, there are but Two Things upon Two Witnesses that are placed upon me; the First, my Lord, here is Two Witnesses for crying *Justice* and *Execution*.

L. Ch. Bar. I think you have more than Two to those Words.

Axtell. Not for both together.

L. Ch. Bar. No, but several for *Justice*.

Axtell. There is Three to that; I shall only say this to your Lordship, and this Jury, in whose Hand this Life of mine is, and is committed to them, either to acquit or condemn me; and God knows the Hearts of all Men, and my Innocency and Integrity; I shall say nothing to the Witnesses, it is a Day of Temptation; and I desire the Jury, my Countrymen, my Fellow Citizens, my Brethren, that they would well consider of it, the Word *Execution* and *Justice*; admit I had said them, (which, my Lord, I do not, I must not grant,) there being an Uproar of People, there such Words might be used, and possibly Soldiers might take them up from them, and chastising the Soldiers I might repeat the Words, *I will Justice you, I will Execution you*.

L. Ch. Bar. The Evidence is, that you beat them because they did not readily cry, *Justice, Justice*.

Axtell. It might be more probable I beat them because they did do it, I might chastise them for doing of it, and repeat it as a Reason for their Chastisement; and but admitting it was true, which I grant not, yet I hope Justice, and Execution of Justice, as it is so great an Attribute of God, by God's Laws, nor Man's Laws, is nowhere made Treason, but Mercy attends it, and Judgment attends the contrary; I leave it upon the Consciences of the Jury to weigh it carefully, how I could be guilty of *Compassing and Imagining the Death of the King*, when nothing is charged against me to be either of Council, Sentencing, or Signing, or to be at the Execution; only one Man, as I told you before, he spoke something Wrathly, and that he had suffered much, and therefore he is come over now, and saith I should send for the Executioner, which I never knew of, or had any Hand in sending for; how much
Validity

Validity that hath I leave to the Jury ; if it were so it is not Treason; for Words may make a Heretick, not a Traytor ; I speak that by Way of Preface ; I do humbly conceive that these being only noted Words, *Execution* and *Justice*, the King not so much as named, nor any Thing done to it by me, I say, I conceive it doth not amount to Treason by the Law ; and besides, it is against the Law of the Great Judge, the Judge of Judges ; all of us that are now, and are to come, shall stand before him to receive our Deserts ; I say it is against the Law of God *to make me an Offender for a Word* ; for a Word ; I have heard the Judges say, that the Laws of *England* are grounded upon the Laws of God, and the Laws of *England* are Laws of Mercy, not of Rigour : My Lord, if a Man shall be destroyed in his Life, in his Posterity, for a Word, (admit the Thing had been so,) I leave upon the Consciences of my Jury, before the Presence of Jesus Christ, and before whom they and I must come to be rejudged again at the Tribunal ; and besides, it is only Words, and Words uncertain ; and Sir *Edward Cook* saith, he must declare plain Truth in Matter of Treason ; nothing must be taken for Evidence that may be a Presumption or Inference, or Strain of Wit ; I hope upon this Consideration that the Word Justice fixed upon me by Two Witnesses may be taken up at Second or Third Hand from the People or Soldiers, by chastising them for the Tumult. Then, my Lord, in the next Place, these Words were never put in Writing, and so not Treason ; then, my Lord, there was never an Overt-Act done by me ; for that Act of Indemnity that His Majesty and both Houses of Parliament passed, wherein they were pleased the very last to except me, I wonder'd when I came to be excepted of that Number ; I do come back to the Place where I left, and that is the Overt-Act. My Lord, I would only bring it in in this Place ; when I was excepted by the House of Commons, one of the Twenty, I was excepted thus, not extending to Life ; I went up and down free at Noon-day ; I did not hide myself ; ingaging a Person that was one of His Majesties Servants to do me a Courtesie, he promised me he would do it, and, contrary to his Promise, he was pleased to bring the King's Warrant to carry me to the *Tower* ; and after that I came to be excepted with that Black

Catalogue of excepted Persons, and to be brought to the Trial of the Law. Now (my Lord) I return to that Overt-act, as it was but Words uncertain, and they may be Words repeated from the Third or the Fourth Hand, for they were not put in Writing, according to that act of Indemnity, which I understand the Meaning of to be thus; that for their execrable Treasons, in Sentencing, Signing, or otherwise Instrumental, they are excepted out of this Act, and to be tried according to the Laws of this Nation; I understand that to be Instrumental, to be Instrumentally the Executioner of the King, I never had any Hand in that. Upon the whole, this is the Fact that is proved by Two Witnesses; they heard me say, *Justice and Execution*, which must relate to the *Execution of Justice*, which by the Law of God is not Treason, especially when there was not the Word King; for a Word to take away, and destroy so many, my Life, Wife, Children, and many Fatherless that are under the Charge of the Prisoner at the Bar, is very sad; the Words I do not grant, but upon such Probabilities as I have said I might repeat them, *I will Justice you, I will Execution you*, and then the Words were not written; I say as Sir *Edward Cooke* said, they may make a Heretick; but not a Traytor. The other Part of the Evidence is this, that I was there with Soldiers at *Westminster-hall*; I must say, if that be Treason to be guided by Judgment of Lords and Commons in Parliament, I must say, if that be Treason to take up Arms for a Parliament upon such Grounds and Expositions of the Statute which they have made and published by their own Authority, if I am Guilty under the General, then the Parliament would be Guilty of Treason.

L. Ch. Bar. That you have spoke to — I am loth to interrupt you.

Axt. I thank your Lordships for informing me, but I was commanded to be there by my General; if I had not gone I must have died; I did only stand there for Preservation of the Peace, in no other Sense; if the General order me to be at such a Rendezvous, I must be there; if I disobeyed he would have condemned me by the Law of War. The next Thing against me material are these Two Things, that is, that I should send one *Elisha Axtell* for the Executioner; I must say it

it is most admirable such Things should be laid to my Charge; I hope your Lordships and the Jury do observe, he told you he suffered much, and a poor Man, under his Extremities, and Losses, and Sufferings, perhaps might start some unadvised Words, and being now sent over, may ascertain it. But doubtless this *Elisha Axtell* being in *Ireland*, if by Command it had been so, would have been sent over; truly I must say I had no Hand in the Business, it was left wholly to them amongst themselves, and whatever was done, or whatever was said, it was said and done by them; I never was acquainted with any Thing of that Nature; he said he heard I should send *Elisha Axtell* for an Executioner, if Hearsays may be Treason it will be a hard Lesson; and my Lord, Sir *Edward Cooke* saith, there must be Two Witnesses, here is but one. It comes from such a Man, my Lord, as the Providence of God, but I will say no more as to that, but pray the Jury will take Notice of it.

L. Ch. Bar. You need not doubt of it, it shall be taken Notice of. this of *Burden*.

Axt. Now, my Lord, I have but Two or Three Words more, the Statute of the 25th of *Edward* the Third it doth intend private Persons, my Lord, here is my Commission.

L. Ch. Bar. It is owned you had it from your General.

Axt. My Lord, His Majesty is pleased to say in His Gracious Letter, we do by these Presents declare, *That we do grant a Free and General Pardon to all our Subjects, of what Degree or Quality whatsoever, who within Four Days after the publishing hereof shall lay hold upon this our Grace and Favour, excepting only such Persons as shall hereafter be excepted by Parliament, that is, a Parliament called by his own Writ. You know this Parliament—*

L. Ch. Bar. Mr. *Axtell* I would not interrupt you to that, but this very Objection was made by one of the Prisoners before; this Answer was given, First, the King's Declaration is not a Pardon in Point of Law, it must be under the Broad-Seal, but God forbid but it should bind in Honour. You instanced in the Word Parliament, what was meant by the Word Parliament: You must know this, the Exigency of the Times were such, that there were many Noble Persons that took the Advantage to assemble themselves together to reinstate the

the King; they did that which was just and lawful, according to the Exigency of the Times; this Declaration he sent to the Two Houses, he called them his Two Houses; so that it appears clearly and manifestly they were then sitting, they being accepted by the King, and owned by him; and they did sit in Way of Convention, according as a Parliament, and his Majesty sent his Letter to them; and these are the Persons that have thought fit to except you out of that Act.

Axtell. My Lord, may I speak to that any further?

L. Ch. Bar. If you do it will be over-ruled.

Axt. I submit — with Submission to the Providence of God; I did apply to Sir *Harbottle Grimston* for the Mercy and Favour of his Majesty, according to his Declaration, and here is Sir *Harbottle's* own Hand for a Certificate.

L. Ch. Bar. That is allowed you, that you did claim that Benefit within the Time, but you may remember that it was referred to those Two Houses of Parliament, they were to consider who was fit for the Pardon, and you are by them excepted out by Name: Your Question now is no more but *whether Guilty? Or, Not Guilty?* And these are but extravagant Discourses that you say otherwise, and rather do you Harm than Good.

Axtell. I hope you will pardon me, my Lord; I hope I have spoken to clear the Point, the Fact charged by your Lordships, and before the Jury; and I hope the Lord will give the Jury a Memory of it, and a right Understanding in what I have said for my own Defence. My Lord, the next Thing I have to offer is this, to expound that Act of Parliament, that it was the Intention of his Majesty and Parliament that all should be excepted, but those Guilty of Councelling, Signing, or Sentencing. Truly, my Lord, I humbly conceive, I being none of those, am not Guilty of Treason. I shall only speak one Word to my Jury, That they will remember what I have said, that there is but Two Things, Two Witnesses, as to *Justice and Execution*; that it relates to no Person, but in General; and then I do not own the Things, but possibly they might hear such Words, I taking of them up upon a Rebound, reproved the Soldiers; for the other, that I should send one for the Executioner, (he heard so,) and that I should name who

was

was the Executioner, I would not have that Person, or any other, to suffer for that.

L. Ch. Bar. That is not at all pressed upon you, not as to any Charge.

Axtell. I thank your Lordship. I am very Ignorant.

L. Ch. Bar. Have you done, Sir?

Axtell. I leave the Matter to the Jury, in whose Hands I and my little Ones and Family, are left; I only say this to you, remember your Ancestors, remember your Posterity. I never heard it before that Words were Treason. In Queen Mary's Time *Tbrockmorton* was acquitted for Words by the Jury. Gentlemen of the Jury, I leave my Case, my Life, my All, in your Hands.

L. Ch. Bar. Gentlemen of the Jury, there hath been several Things offered by the Prisoner at the Bar, as near as my Memory will give me leave in so long a Discourse, I shall repeat all Things which he saith for himself, and which are said against him. There are some Things that he seems to utter as tending to Matter of Law, and something meerly of Fact, proper only for you of the Jury. For Matter of Law he hath urged several Things for himself, not by Way of Justification of the Fact, (I must do him that Right,) but in Excuse of himself; and I hope his Conscience hath so wrought upon him, that he is of Opinion the Fact was a horrid Fact, which was so indeed.

For that which he hath said for himself, First, he doth alledge to have his Commission from the Lord *Fairfax*, my Lord *Fairfax* had his Commission from the Two Houses of Parliament, and this Gentleman's was in *March* the Beginning of the Year 1648. He saith what he did was in Obedience to his Superiors, as a Soldier; that he never consulted or advised about any Thing of the Trial or Execution of his Majesty. For this Point, it hath already been spoken to, Gentlemen; for that which hath been spoken to at large heretofore I must repeat it here that he may know it, That no Person whatsoever, no Community, nor the People, either Collectively or Representatively, have any Coercive Power over the King; neither the Lord *Fairfax*, his General, nor he, nor any other Person, could be excused for this horrid Fact of bringing the
King

King to Trial, no Person, as I said before, nor Community, have any such Power. The Law-books which he hath lately seen, (and truly he hath imployed his Time well in that,) the Law-books tell us, that whereas the Two *Spencers* had broached a damnable and detestable Principle, that the Homage was only due to the King, in Respect to his Crown ; that if he did not demean himself according to such and such Rules, his Subjects might rule him *per asperitatem*, by Asperity and Sharpness ; but this was condemned by Two Acts of Parliament ; they both appear in my Lord *Cooke* in *Calvin's Case*. I do not go to repeat all the Evidence that might clear this Truth ; I say, had there been any such Thing, but it hath been told him there was no such Thing in Fact. My Lord *Fairfax's* Commission was for the Preservation of the King, as well as for the Liberties of the People. The 11th of *Rich. 2.* *Robert de Vere*, and others, for levying a War was punished, but this Gentleman was not charged for levying of War. If either of the Houses of Parliament should command such a Thing as tends to the Death of the King, it would be void in itself. Something he let fall of the Parliament not being dissolved. My Masters, for that you have heard some of my Lords declare how, and in what manner, this was an Authority of Parliament, but it was clearly nothing at all ; this Gentleman goes by Vertue of a Power from the Lord *Fairfax*. The next Thing he urges in Point of Law was this, he comes by Way of Dilemma ; saith he, either I must obey my General, or die by the Law of War. He goes further, and urges the Statute of 11 *Hen. 7.* He comes further, and saith, in the 25th *Edw. 3.* that concerns single Persons, truly it concerns every Man. The Indictment, you see how it is laid, *it is for Imagining and Compassing the Death of the King*. The Overt-acts in the Indictment, you have heard what they are ; there must be more than one Witness for Treason. It is very true, but if one Person prove one Thing, another Person another ; if one swear he did cry, *Justice, Justice, Execution, Execution*, and another swear some other Part, Gentlemen, this was here before delivered to you for an Overt-act. It is any Thing that opens and makes it appear to the Jury that he did do the Things for which he is Indicted ; I say any one of these that they did meet together, and

and did consult in order to the putting the King to Death: That they did meet in a Traiterous Assembly about the Kings' Death; I shall say no more; you need not I think go from the Bar.

The Jury go together, and after a little Consultation among themselves they returned to their Places.

Clerk of the Crown. Gentlemen of the Jury, are you agreed of your Verdict?

Jury. Yes.

Cl. Who shall say for you?

Jury. Foreman.

Cl. Daniel Axtell, Hold up thy Hand. Gentlemen, look upon the Prisoner at the Bar: How say you, is he Guilty of the High-Treason whereof he stands Indicted, and hath been Arraigned? Or not Guilty?

Foreman. Guilty.

Cl. Look to him Keeper. What Goods and Chattels?

Jury. None to our Knowledge.

The Trial of Colonel Hacker the same Day, October 15. 1660.

*C*lerk of the Crown. Set Francis Hacker to the Bar; which was done accordingly.

Cl. Fr. Hacker, Hold up thy Hand. These Men that were last called are to pass upon you, &c. If you will Challenge all, or any, of them, you must Challenge them when they come to the Book, before they are Sworn.

Lord Chief Baron. You may Challenge 35 Peremptorily, but no more.

Hacker. My Lord, I shall Challenge none.

Tho. Bide, Rob. Sheppard, Will. Dod, Sir Tho. Allein, Sir Hen. Wroth, Tho. Morris, Ralph Halsal, John Galliard, John Nicol, Tho. Usman, Tho. Nicol, Christopher Abdy, in all Twelve. The Jury Called and Sworn.

Clerk of the Crown. Proclamation, if any Man can inform my Lords, the King's Justices, &c.

R

Clerk.

Clerk. Francis Hacker, Hold up thy Hand; look upon the Prisoner you that are Sworn of this Jury. You shall understand that *Francis Hacker*, Prisoner at the Bar, stands Indicted, &c.

Mr. Serj. Keeling. My Lords, and Gentlemen of this Jury, *Francis Hacker*, the Prisoner at the Bar, stands Indicted, amongst others, for Compassing and Imagining the Death of the late King *Charles* the First of Happy Memory. The Compassing and Imagining is the Treason itself; the other Points, as *Convening, Assembling, Meeting together*, and the actual Villany that followed all these, are but as Evidences of that Imagination. As to this Person at the Bar our Evidence will be thus; we shall make it appear to you that he was one of the Persons that were upon the Guard, and kept the King a Prisoner, that he might be sure to be brought to that *Mock Court of Injustice*. Then it will appear to you that this Prisoner at the Bar was highly trusted by all those Miscreants that thirsted for the King's Blood, by their Bloody Warrant directed to him and others, to take the King's Person into Custody, and to see Execution done. This was the Person that kept him till he brought him to that Fatal Stage. That this Warrant was lately brought from his own House by his own Wife to the House of Lords; and then we shall shew you that this Person set his Hand to the Warrant to the Executioner for Execution. That he did not do it ignorantly nor unwillingly. for he heard the Warrant read. We shall make it appear that he was upon the Scaffold, and had the Ax in his Hand.

Council. Crier, call *Holland Sympson*, Colonel *Tomlinson*, *Mr. Nunnelly*, *Mr. Nutley*, *Hercules Huncks*, and *Benjamin Francis*, who were all Sworn as Witnesses.

Council. *Mr. Sympson*, speak your Knowledge of the Employment of the Prisoner touching the Trial and Execution of the King.

Hacker. My Lords, I will confess what I know in this Case, to save your Lordships the Trouble. I confess I was upon the Guard, and had a Warrant to keep the King for his Execution. (*The Warrant being shewn to the Prisoner, he confessed that to be the Warrant.*)

Council.

Council. After you had that Warrant brought to you, did you by Verrue of that direct another Warrant for Execution of the King? Did you not take the King (then Prisoner) from the Custody of Colonel Tomlinson?

Hacker. No, Sir.

Council. We shall prove it: the Warrant was read, At the High Court of Justice for Trial, &c. My Lord, at the Time that this Warrant was Signed the Person of the King was in the Custody of Col. Tomlinson; Did not you take and demand from Col. Tomlinson the Person of the King as soon as you received that Warrant?

Hacker. No; Sir, I demanded him not.

Council. Col. Tomlinson, tell my Lords the Manner of that Business.

Tomlinson. My Lords, and Gentlemen of this Jury, I shall, as my Memory enables me, make a faithful Narrative of this Business: I had indeed to do with the Guard that had to do with the Person of the King about St. James's. Being then an Officer of the Army, a Colonel of Horse, when the King came to St. James's, it was observed by some that there was too great an Access of People admitted to the King; and within One Day or Two after there was a Party of Halberteers appointed for the stricter observing the Guard; they were commanded by Three Gentlemen, of whom this Prisoner at the Bar was One; the Orders every Day for removing the Person of the King were commonly directed to Four Persons, and those were myself, Lieu. Col. Cobbet, Capt. Merriam, and One more; but the Guards that still went along were the Halberteers. So that every Day when the King did go to Westminster, he went to Sir Robert Cotton's House, and so far I went with him, and no farther; I never went with him, nor saw him, at that pretended High Court of Justice. When he used to go to the High Court of Justice, commonly (every Time indeed) the Serjeant, Serjeant Dendy, (as I remember his Name was,) he used to come and demand that the King should go to the High Court of Justice, and Col. Hacker did ordinarily go with him, with the Halberteers. It was my Custom to stay in the Room till he came back again; these Orders continued during the Time of his Tri-

al. After the Sentence was given, on the Day whereon the Execution was to be done, it was ordered, (which Order may be produced if significant,) that the Guards that were for the Security of the Person of the King should cease when a Warrant from the High Court of Justice for the Execution should be produced: I would not omit any Thing that I well remember; and this I remember, that the Night before the Execution the King called me into his Chamber, and told me several Things; I will take the Occasion to trouble you with a short Discourse of it; he told me of some Legacies he had given; he told me he had prepared something that he would speak the next Day: and in the close of it he desired me that I would not leave him; (for I speak it in Truth,) there were many times several Incivilities offered to him; and tho' I was upon a Duty that was of a harsh and unpleasing Nature to me, and did desire several Times to be released from it, (as I believe is well known to some,) yet I did not admit any Time that any Incivility should be offered to him; People would take Tobacco before him, and keep their Hats on before him, I always checked them for it; he was pleased to have a Consideration of that Care that I had in that Capacity I then stood. That very Night before his Death he was pleased to give me a Legacy, which was a Gold Tooth-picker and Case that he kept in his Pocket. The next Day, when the Warrant came, the Guard of Halberteers went with him through *St. James's-Park*, I was present, walking near the King, the Bishop of *London*, (now of *Canterbury*,) was with him, and some others. As we were going thorough the *Park* he was pleased to discourse something of what he had been discoursing before, touching his Burial; he wished that the Duke of *Richmond* and some others that he should bring should take Care of it. That Morning in the *Park* he told me he had been thinking of what he had said the Night before. He told me he had some Thoughts that his Son might come to bury him, and desired he might not suddenly be Buried; I gave him Assurance I would communicate his Desire, and so I did: When he came to *Whitehall* he went into a Room in the Gallery, (I know not the Name,) the Guard stood in the outer Room there. There was a Gentleman that came to me there, and told me he was
endeavour.

endeavouring to present a Letter from the Prince to the King, and told me he could not get an Opportunity; I said he should not want an Opportunity if I could help him; it was Mr. *Henry Seymor*; it was delivered, and the King read it, and he gave several Things in Charge to Mr. *Seymor* to acquaint the Prince with, and was pleased to mention to him something of Civility that I had shewn him in his Imprisonment, the Effect and Fruit of it I find, and do most humbly acknowledge before all the World my Thanks to his most Gracious Majesty the King, and to the Lords and Commons. After Mr. *Seymor* was gone from him, (I do not well remember the Time, whether it was Twelve, One, or Two a Clock,) Col. *Hacker* came in, and there was present with him the Two other Gentlemen that were named in the Warrant, (as I remember,) I am sure Col. *Hacker*, (if my Memory fail me not,) did produce the Warrant. Myself, and those Gentlemen that were concerned in the former Orders, looked upon this Warrant, by which the Orders which he had were at the End. I must confess I did not, nor none of those did tell him, that the Orders for Security of his Person were at an End, but Col. *Hacker* did go in to him, and after a little while Col. *Hacker* comes to the Door, and the King was coming forth, and he told me that the King desired I should go along with him; and indeed the Night before, when the King told me that he had prepared something to speak, he desired I would not leave him. So Col. *Hacker* led him forth, the Bp of *London* followed him, and I followed the Bp of *London*; the Guards were prepared without, and they went on to the Scaffold; when we came to the Scaffold I went so far as to the Entrance upon it; the King was upon it, and had looked a little while about it, and was thinking to have spoken over, but he turned about to me, and began to direct his Speech to me. I cannot trouble you with what the King said, for I cannot remember it; but that Colonel *Hacker* was there in Prosecution of that Warrant, and upon that Warrant our Orders were at an End, I do aver.

Coun. You delivered him upon that Warrant, did you?

Toml. He went and received the King upon that Warrant; it was a Chamber that was known then by the Name of the

Horn-Chamber, and there the King was in the inner Room; this is the Substance of all.

Coun. We will trouble you with One or Two Witnesses more.

Coun. Mr. Tomlinson, did Mr. Hacker, or his Soldiers, take Tobacco to the Offence of the King?

Taml. I do not say that any Tobacco was taken there by Mr. Hacker, but the Soldiers would be stepping in, and take Tobacco at his Chamber in St. James's, and committed other Incivilities.

Coun. We have proved that the Prisoner did demand, and had the Person of the King: Now we will prove to you that himself had the Boldness to make a Warrant in pursuance of the former, for the Execution of the King.

Coun. Crier, call Mr. Huncks. (*He being Sworn said,*)

Huncks. My Lords, and Gentlemen of the Jury, that Day the King died, a little before the Hour he died, I was in *Ireton's* Chamber, where *Ireton* and *Harrison* were in Bed together, there was *Cromwel*, Col. *Hacker*, Lieut. Col. *Phayer*, *Axtell*, and myself, standing at the Door; this Warrant for the Execution was there produced, and you (looking upon Mr. *Hacker* at the Bar,) were reading of it, but *Cromwel* addressed himself to me, commanding me, by Vertue of that Warrant, to draw up an Order for the Executioner; I refused it, and upon refusing of it there hapned some cross Passages. *Cromwel* would have no Delay. There was a little Table that stood by the Door, and Pen, Ink, and Paper, being there, *Cromwel* stepped and writ, (I conceive he wrote that which he would have had me to write:) As soon as he had done writing, he gives the Pen over to *Hacker*; *Hacker*, he stoops and did write, (I cannot say what he writ,) away goes *Cromwel*, and then *Axtell*; we all went out, afterwards they went into another Room.

Council. What followed?

Hunc. Immediately the King came out, and was Murther'd, Mr. Secretary *Morrice*. Mr. *Huncks*, you did tell us in the Tower, (when we were sent by His Majesties Council to examine you, and others there,) that Col. *Hacker* did then Sign that Warrant for nominating and appointing the Execution.

Huncks.

Huncks. My Lord, *Cromwel* comes to me, and bids me write a Warrant for that Purpose; I refusing of it. *Cromwel* writes himself, and *Hacker* writing to the same Paper, what should I conceive but that it was the Warrant? (the King presently after coming to the Scaffold.)

Council. Did *Cromwel* give you no bad Names because you would not write that Order? Did not he say you were a Coward?

Huncks. He said I was a froward peevish Fellow.

Council. Did *Hacker* only write his Name, or give Directions, in the drawing up of the Order?

Huncks. I conceive he only writ his Name.

Council. My Lord, we have only that Eye-witness.

H. Hacker confessed to the Gentleman Jaylor of the Tower, that if he did do it he did it by Order.

Mr. Secretary Morrice and the L. Annesly Sworn.

Council. Mr. Secretary, we desire you would be pleased to tell my Lords what Col. *Hacker*, the Prisoner at the Bar, did confess to you, and others, touching this Business.

Mr. Secretary. When Col. *Huncks* (for that Title he now assumes,) was brought over out of Ireland, and committed to the Tower of London, there was Three of the Council, by Order of the Board, sent to examine him, Sir *Anthony Ashly-Cooper*, Mr. *Annesly*, and myself: In Obedience to that Order we repaired to the Tower, and had Col. *Huncks* brought before us; we told him, that he (being one of those which was appointed by Warrant from the Supposititious High Court of Justice to carry on the Execution of the King, and see it done,) must needs know who was the Executioner: Whereunto he answered, that he, for his Part, did not know who was the Executioner, for the Warrant whereby the Executioner was nominated and appointed was refused to be signed by him, but Col. *Hacker* signed it, and therefore Col. *Hacker* must know it. Accordingly upon our Return we made our Report to the Board, and upon this there was an Order that Col. *Hacker* should be sent for, taken into Custody, and brought before the Lords of the Council: Accordingly he was apprehended, and the same Three Counsellors were sent down to examine him. We took him into a private Room, and examined him, and

told him, (amongst other Things,) that he being the Man that (as we are informed,) did Sign the Warrant for the nominating and appointing the Executioner, doubtless he must needs know who that was; at first he said he did not Sign this Warrant: I told him I would have him well advised what he said; for if you deny it it will be proved by such a Man, naming Col. *Huncks*, and that you will do yourself a great Prejudice if you deny that; saith he, *I do believe I did Sign the Warrant for appointing the Executioner*; this is all I can say.

L. Annesly. Gentlemen of the Jury, it is very true as you have been told already, that I was amongst those that the Council sent to the *Tower of London*, first to examine Col. *Huncks*, and Mr. *Cook*, that hath been condemned. *Hulet*, and some other Prisoners. We did examine Colonel *Huncks*, and he did by his Examination acquit himself from Signing that Warrant that he was charged with, being one of the Three appointed to see Execution done: but they appointed another to Sign the Warrant, (Col. *Huncks* refusing,) and upon his refusing, (as he said,) *Cromwel*, that urged him to it, said he was a cowardly fellow, or something to that Purpose: When we examined him about the Person in the *Frock*, he said he knew nothing of that, but that Col. *Hacker* Signed that Warrant for Execution; this Examination being reported to the Council, the Lords sent for *Hacker*. I think upon Notice Colonel *Hacker* came; he had been of the Army, and continued till that Time an Officer: When he came thither, the Lords of the Council having Notice of it, commanded the same Persons formerly appointed to go out and examine him; we had him into a little Room belonging to the Clerks of the Council, and examined him to that Point concerning the Man that cut off the King's Head, whether he knew any Thing of it? He did affirm positively he did not know; we told him that he was the Man by Testimony that signed a Warrant for Execution of the King, and then certainly he must know the Person that he appointed by his Warrant; he said, if I did Sign any Warrant it was by Command of the General; that being but Hypothetical, we thought it meet to make it more positive, whereupon we asked him
whether

whether he was the Man that Signed the Warrant? Or no? Thereupon, (as I remember, and as the Examination, which was all written with mine own Hand, doth help my Memory,) he did say he did believe he did Sign such a Warrant; thereupon he was asked further, how could it be possible that he could forget the Man if he signed the Warrant; he knew who the Man was that was appointed; he said for that, that he did believe the Warrant was read to him, and that therein the Man's Name might be, but he could not now remember his Name; this was the Effect of his Examination and Confession.

Council. Mr. Francis, did you see Colonel Hacker at the Time of the Execution upon the Scaffold?

Francis. Yes, I did see him as a Principal Commander there; I was coming out of *Westminster* into *London*, about half an Hour before the King came upon the Scaffold; coming near the Scaffold, as soon as I was engaged in the Throng, (when I had passed about Eight or Ten Yards,) I could not pass backward nor forward; I was inforced to stand there: During that Time I saw the Scaffold and the Ax, and the Block taken up by divers People; and principally I saw a Man that is not here; he is in Custody, I saw him take it up, and try it with his Thumb, and lay it down; this was *James Berry*, he came off, and came not upon the Scaffold again, unless disguised.

Council. Did you see Hacker there? Did you see him upon the Scaffold when the King came on?

Francis. I did see him, he was there; His Majesty came to the Side of the Scaffold next to *Sr. James's*; he looked that Way and smiled; after a while the Block and Ax lying down about the middle of the Scaffold. there was a Black Cloth hung about the Rails of the Scaffold.

Council. We have another Evidence, the Prisoner hath confessed enough; but we have proved that he had the King in Custody; he confessed that he believed he did Sign the Warrant, and that he at the Time of Execution was there to manage it. What do you say for yourself?

Hacker. Truly, my Lord, I have no more to say for myself, but that I was a Soldier, and under Command, and what I did was by that Commission you have read.

L. Ch. Bar. Can you deny any Thing that Mr. Secretary and Mr. *Annesly* have declared?

Hacker. I cannot tell what I might then say, the Gentlemen were very strict with me; truly I have been no Counsellor nor Advisor, nor Abettor of it, but in Obedience to the Command over me I did act. My Desire hath been ever for the Welfare of my Countrey, and that Civil Power might stand.

L. Ch. Bar. Have you yet resolved who you gave the Warrant for Execution to?

Hacker. No, my Lord, I delivered none.

L. Ch. Bar. But you know who it was directed to.

Hacker. No indeed, my Lord; be pleased to ask Col. *Huncks* whether I read this Warrant or no.

L. Ch. Bar. This is all you have to say for yourself?

Hacker. Yea, my Lord.

L. Ch. Bar. Then Col. *Hacker*, for that which you say for yourself, that you did it by Command, you must understand that no Power on Earth could Authorize such a Thing, no Command in such a Case can excuse you. There is a Two-fold Obedience, a Passive-Obedience, to suffer rather than do Things unlawful; and an Active-Obedience, to do that only which is lawful; and therefore this will not excuse your Obedience to those unlawful Commands. —Gentlemen of the Jury, you see the Prisoner at the Bar stands Indicted for *Compassing* and *Imagining* the Death of the late King; and there are several open Acts set forth in the Indictment, which tend to prove that Matter; one is Assembling and Meeting together, another is Sitting upon the King, another Sentencing, and at last concludes with the Murder of the King, as the Consequence of all. Any Thing that tends to the proving of this Compassing and Imagining his Death in any one of these Particulars, that is an Evidence to you to prove the whole Indictment. This Gentleman was Commander of Halberters; Col. *Tomlinson* saith, that though he kept the Guards that were about the King's Person, this Gentleman, with Two other Persons, brought Halberters, that there might not be such frequent Access as formerly to the King; there is one Act. He commands these Halberters at that Time, when the

the Business was in Agitation, before that High Court, as they called it. You see after the Sentence was given that he was one of the Persons to whom the Warrant for Execution was directed; you see afterwards there was a consulting together, *Cromwel, Ireton, Harrison, and Axtell*, were in the Chamber, when *Col. Huncks* refused to Sign; the Prisoner signed the Warrant, but knows not the Person to whom it was directed: You see besides *Col. Tomlinson's* Testimony, who saith further, that when they were discharged *Col. Hacker* went in, and the King was brought out presently after to that Fatal Place. *Col. Huncks* Swears, that when that Warrant was offered to him he refused it; that *Hacker*, the Prisoner at the Bar, signed a Warrant, though he doth not remember the Name of the Person to whom; it appears by Two Witnesses (honourable Persons) he confessed he signed it, but he did not know the Person to whom directed. You see another Witness, *Benjamin Francis*, he saith he saw *Hacker* upon the Scaffold with the King.

He doth not deny the Fact; you need go no further, it is very plain he had a Hand in this Business, a principal Agent in it; he that brought the King to the Scaffold, he that had the Care in managing that Business, he that signed the Warrant to the Executioner, either he is Guilty of Compassing the Death of the King, or no Man can be said to be Guilty.

The Jury went together, and after some little Consultation returned to their Places.

Clerk of the Crown. Gentlemen of the Jury, are you agreed on your Verdict?

Jury. Yes.

Clerk. Who shall say for you?

Jury. Our Foreman.

Clerk. *Francis Hacker*, Hold up thy Hand. Gentlemen, look upon the Prisoner at the Bar, how say you, is he guilty of High-Treason, whereof he stands Indicted, and hath been Arraigned? Or not Guilty?

Foreman. Guilty.

Clerk. Look to him Keeper.

Clerk. What Goods and Chattels, &c.

Jury. None that we know of.

The

The Trial of William Hulet, Octob. 15. 1660.

Clerk of the Crown. Set *William Hulet* to the Bar, (who was brought accordingly,) *William Hulet, alias Houlet, Hold up thy Hand.* Those Persons that were last called of the Jury are to pass, &c. if you will Challenge them, or any of them, you must Challenge them when they come to the Book before they be Sworn.

L. Ch. Bar. Understand you have Power to Challenge Five and Thirty Men, and not above; you may Challenge them without Cause shewn. If you have Cause for any other you may Challenge them also. If you will have Pen, Ink, and Paper, you may have them.

Hulet. Truly, my Lord; I cannot Write but a very little; I shall not need them. I did not understand my Indictment well, I desire to hear it again.

L. Ch. Bar. You will hear it read again.

Clerk. *Sir Thomas Allen, Sir Henry Wroth, Tho. Bide, Robert Sheppard, Thomas Morris, Ralph Halsai, John Gallyard, John Nichol, Thomas Usman, Christopher Abdy, Willam Dod,* in all Twelve. Jury Called and Sworn.

Cl. of the Cr. *Will. Hulet, alias Houlet, Hold up thy Hand,* You Gentlemen that are Sworn, look upon the Prisoner.

Cl. You shall understand that he stands Indicted of High-Treason, by the Name of *Will. Hulet, alias Houlet, late of Westminster* in the County of *Middlesex*, Gent. for that he as a false Traitor, &c. (here the Indictment was read,) unto which Indictment he hath pleaded not Guilty, and for his Trial hath put himself upon God and the Countrey, which Countrey you are: Now your Charge is to enquire, &c.

Sir Edward Turner. May it please your Lordships, and you Gentlemen that are Sworn, of this Jury, we are now entering upon the last Act in this sad Tragedy of the Murther of the late King; there have been before you some of the Judges, the Council the Chaplain, and the Guard; this Prisoner at the Bar, in the last Place, was one of those which came with a Frock on his Body, and a Vizor on his Face, to do the Work. The Course of our Evidence will be this, First,

we

we shall prove by Witnesses that saw him, and knew him, that he was thus disguised; he hath confest that he was upon the Scaffold, that he hath had several Preferments; and I fear it will appear that it was he that gave that Fatal Blow; for he hath confessed he had an Hundred Pounds given him for his Service therein; and we doubt not but to pluck off his Vizor by and by. The Indictment is for Compassing and Imagining the Death of his late Majesty of Glorious Memory; if we prove to you any Circumstantial *Over-all* whereby you shall be convinced of this you are to find him Guilty.

Richard Gittens Sworn.

Council. Mr. *Gittens*, tell my Lord and the Jury what you know touching the Prisoner at the Bar.

Gittens. The Thing is this, my Lord, this Gentleman at the Bar and myself were both in a Regiment in One Company as Serjeants about Twelve or Thirteen Years together. About a Day or Two before the King came to the Scaffold, Colonel *Hewson* did give notice to a Lieutenant that we should come to him, about 38 of us, and he put us all to our Oaths that we should say nothing of what they did; he Swore us to the Book; after he had Sworn us, he asked us if we would undertake to do such an Act; if we would we should have an Hundred Pounds down, and Preferment in the Army as long as that stood, and the Parliament. Afterwards we refused every Person, we thought Captain *Hulet* did refuse; after all refused, it seems he did undertake to do the Deed. When the King was brought on the Scaffold, we were in *Scotland-yard*, and they were upon the Guard in the *Banqueting-Chamber*; when they were there I laid down my Arms, and got into the Company; Captain *Webb* kept the Guard, with his Halbert in his Hand, by the Scaffold, and I did bustle to come near to them; then I returned back. *Hulet* (as far as I can guess) when the King came on the Scaffold for his Execution, and said, Executioner, is the Block fast? Then he fell upon his Knees.

Coun. Who did?

Gittens. *Hulet*, to ask him Forgiveness; by his Speech I thought it was he; Captain *Atkins*, who would not undertake to do this Fact, I told him I would not do it for all the City

City of London; no, nor I neither for all the World, saith *Atkins*; you shall see *Hulet* quickly come to Preferment; and presently after he was made Captain-Lieutenant.

Council. Was he with his Regiment that Day?

Gittens. We could not see him with the Regiment all that Day; he was never absent at any Time before.

Council. Did you know his Voice?

Gittens. Yes, Sir.

Council. Did you mark the Proportion of his Body, or his Habit, what Disguise he was in?

Gittens. He had a Pair of Freeze Trunk Breeches, and a Vizor, with a Gray Beard, and after that Time Colonel *Hewson* called him Father Gray-beard, and most of the Army besides, ye cannot deny it.

Hulet. I desire as to this Witness; he doth alledge that he and I were Serjeants in One Company, which I deny; he was not in that Company I was in; I desire to know of him how he comes to know that I was there at that Time.

Gittens. By your Voice.

Hulet. I will swear that this Man was with the Regiment under the Scaffold; where were you at that Time when the Act was done?

G. Where was I? By Captain *Webb*.

H. Where was he?

G. At the Door of the Banqueting-house.

H. Was you on the Scaffold, or no, Sir?

G. I was on the Scaffold End.

H. My Lord, I desire you to consider what this Person saith, he saith he was upon the Guard in Scotland-yard, and at the Scaffold with Captain *Webb*. My Lord, I desire again, whereas he said I had a Gray Beard, let any Man besides himself say that ever I was called by that Name Gray-beard throughout the Regiment.

Stammers Sworn.

Council. What have you to say concerning the Prisoner at the Bar?

St. He was a Captain-Lieutenant to Colonel *Hewson's* Troop; when I had entered myself into that Troop I was a while in *Dublin*, and I was commanded by the Prisoner at

the

the Bar, I and the rest, to march to a Place called *Lutterels-Town*, about 5 Miles beyond *Dublin*; the Prisoner at the Bar came thither to us Two Days after; then being in his Chamber he sent for me up; I went up and sat down; he examined where I had served; I told him I did formerly belong to the Lord of *Inchequin*; he asked me if I was ever in the King's Army? With that he walks about the Room Two or Three Turns; saith he, I was the Man that Beheaded King *Charles*, and for doing of it I had an Hundred Pounds, saying, I was a Serjeant at that Time.

Hulet. I desire to ask him a Question; I confess ———
(what is your Name?)

Council. *Stammer*, his Name is *Stammers*.

H. Such a one was under my Command: I think I have not seen you these Eight Years; I desire to know when these Words were spoken, and the Place.

St. I say in *Lutterels-Town* in your own Chamber, and that was Nine or Ten Years ago.

H. It is about Eight Years ago since I left that Command; who was by at that Time?

St. Nobody.

Hulet. 'Tis strange: How long had you been in the Troop before?

St. I was in *Dublin* about a Fortnights Time, then you sent for me, and I came to *Lutterels-Town*; the first Time that I came to the Troop was at *Dublin*, and then you came to me with Two Orders from *Hewson*, and then you did pretend you was Brother to one Mr. *Chambers*, and then we went and quartered in *Lutterels-Town*.

H. My Lord, his Examination in *Ireland* and this doth not agree; you did deny this before *Baldwin* a Trooper; I desire his Examination may be read; (*which was accordingly read, and agreed with the Testimony now given*.) I desire he may mention what Man that was that I sent for him.

St. I cannot tell what Man.

H. My Lord, I desire that Servant may be either named or produced.

St. I cannot remember the Man, it was Seven Years ago.

H. Then again upon another Account, as he speaks before,
that

that I should examine him where he had been, and that he should say, at the Lord *Inchequin's*.

Captain *Toogood* Sworn.

Toogood. I shall first give your Lordships and the Jury what I have heard others say concerning the Prisoner at the Bar, and that is first Colonel *Hewson*; I was in the Year 1650, about September, in *Dublin* Castle, about some Business with *Hewson*; Captain *Hulet*, the Prisoner at the Bar, came into the Room, he talked with Col. *Hewson* a little while; I observed them very familiar; and I asked *Hewson* what he was; he told me he was his Captain-Lieutenant of Horse; I desired to know where he had him; he told me he made him so from a Serjeant and a very Mettled Fellow he was; it was he that did the King's Business for him upon the Scaffold. In the Year 1653 there was a Disbanding of the Army in *Ireland*, this Gentleman was then continued Captain-Lieutenant in *Pretty's* Regiment; I discoursed with *Pretty* concerning him, and one Part of it, I remember, was about the King's Death, and he did tell me that he was assured by Colonel *Hewson*, that *Hulet* either cut off the King's Head, or held it up, and said, *Behold the Head of a Traytor*; Colonel *Pretty* would not tell me which of the Two it was; but I saw the Person that did it, and methought he did resemble this Person. About 12 Months after I came to live near the Prisoner in *Ireland*; once I remember at one Mr. *Smith's* at the *White horse* in *Carlow* I met him there, and I was asking the Prisoner at the Bar the Question, Whether he was the Man that cut off the King's Head? Or not? Saith he, why do you ask me this Question? I told him I had heard by several, namely, by *Hewson* and *Pretty*; upon that he said, well, *what I did I will not be ashamed of; if it were to do again I would do it*; once since that Time, about half a Year afterwards, I was in the same Place, and there talking with him about the King's Death, he was telling me it was true. he was one of the Two Persons that was *disguised* upon the Scaffold. I desired to know what if the King had refused to submit to the Block? Saith he, there were *Staples* placed about the Scaffold, and I had that about me that would have *compelled* him, or Words to that Effect; other Times

times I have heard him speak something to this. *November* the last, in the Queen's County at *Maryborough*, Col. *Jones* took upon him to be Governour, and to chuse Two out of a Regiment that might be the Rulers of the People, Legislators I think they call'd them; I did Discourse about the Business again, and did oppose it all: After a while he began to be very hot in the Business about *Lambert*: Said I, you were heretofore too forward; says he, if it be the Business of the King's Head I will never deny it, call me to an Account when you will: I have observed in *Ireland*, that it hath been generally reported that he was either the Man that cut off the King's Head, or that held it up, as I said before, and I have heard them sometimes call him *Grandfire Gray-Beard*.

Hulet. My Lord, I do confess I know the Gentleman very well, we were in a Regiment together; I never discoursed with any concerning this, but only once at a Place going from *Cullen* to *Munster* we did drink at a Place called *Goran*, we were discoursing about the Business of the King, the Justification of the cutting off His Head; saith *Stammers*, I did hear that you were one of the Persons for that Purpose; said I, they that say so do me Wrong: Saith he, it is no Matter if you were so, for it was a Just Act: Said I, whether it was or no I have nothing to do to justify it; he was speaking as I hope to be saved I would have done it.

Walter Davis Sworn.

Council. What can you say, Mr. *Davis*, to this Business?

Davis. Gentlemen, that which I can say is this; in *January* last was Two Years I was at *Dublin*, I met Captain *Hulet*, he invited me to take Share of a Pint of Wine, I went with him to a Tavern; when we were in the Tavern he called for a Pint of Wine, and I called for another; before we had drank out the last Pint of Wine, said I to Captain *Hulet*, I pray resolve me this one Question; it is reported that you took up the King's Head, and said, behold the Head of a Traytor; Sir, said he, it was a Question I never resolved any Man, though often demanded; yet, saith he, whosoever said it then it matters not, I say it now, it was the Head of a Traytor.

H. I confess we did meet together, as you say, but I must and do deny the Words.

Lieutenant-Colonel *Nelson* Sworn.

Nelson. My Lords, and Gentlemen of the Jury, upon a Discourse with Col. *Axtell*, as I related once this Day, about Six Years since, in many other Discourses we fell to discourse about the Death of the late King; I supposing he had been acquainted with that Affair, I desired him to tell me those Two Persons disguised upon the Scaffold; he told me I knew the Persons as well as himself; saith he, they have been upon Service with you many a Time; pray, Sir, said I, let me know their Names; truly, said he, we would not employ Persons of low Spirits that we did not know, and therefore we pitch'd upon Two Stout Fellows; who were those, said I? It was *Walker* and *Hulet*, they were both Serjeants in *Kent* when you were there, and Stout Men; who gave the Blow, said I? Saith he, poor *Walker*, and *Hulet* took up the Head; pray, said I, what Reward had they? I am not certain whether they had Thirty Pounds apiece, or Thirty Pounds between them.

Hulet. Pray let Mr. *Axtell* speak to this, he is hard by.

Colonel *Tomlinson* Sworn.

Council. Pray tell my Lords your Knowledge in this Business.

Tomlinson. My Lords, and Gentlemen of this Jury, I cannot punctually remember what their Habits were; but they had close Garments to their Bodies, they had Hair on their Faces, one was Gray to the best of my Remembrance, the other was Flaxen Colour.

Council. Can you tell who struck the Blow?

Tom. My Lord, I cannot remember, but I think he with the Gray Hair on his Face did it.

Nelson. My Lord, I will not positively say it, but it came lately to my Mind, that I did hear in *Ireland* by Col. *Pretty* that *Hulet* did it; my Lord, this Col. *Pretty* is alive in *Ireland*.

Ben. Francis Sworn.

Francis. My Lords, and Gentlemen of the Jury, as to the Prisoner at the Bar, he was very Active in that horrid Act; there was Two of them had both Cloaths alike, their Frocks were close to their Bodies, (as I remember;) they were rather
in

in Butchers Habits of Woollen; one had a Black Hat on his Head cock'd up, and a Black Beard, and the other had a Gray griffled Periwig hung down very low; I affirm that he that cut off the King's Head was he in the Gray Periwig, and I believe this was about that Man's Stature, (*pointing to Mr. Hulet.*) and his Beard was of the same Colour, if he had any. I was coming from *Westminster*, the Scaffold was encompassed within with a great Guard of Soldiers of *Redcoats*, I think commanded by *Biscoe*.

Hulet. Was you upon the Scaffold?

Francis. No, Sir, there was none of my Constitution upon the Scaffold.

Council. Fuller Evidence I think cannot be expected; you have heard all the Witnesses, what can you say for yourself?

Hulet. My Lord, here is several Witnesses examined concerning the Business, and for my Part I do not understand the Law; I must leave it to the Court. I can upon the other Account prove where I was at that very Time; I can in the next place, my Lord, since I came into *London*, for I did not hear it before, I can tell you who was the Person that did that Act; I can bring Forty and Forty Witnesses that will prove who they were that did it, as I have been informed by several Witnesses, that they know who was the Person that did it: Upon the other Account, I can prove where I was that Day, but I did not know when I was Arraigned what was laid to my Charge; here was some Examinations taken before my Lord Mayor concerning the Person or Persons that did that Act; (here he offered a Paper, a Copy of the said Examinations, Subscribed *Mary Brandon*, and divers others.)

Mr. Secretary Morrice. Was you not examined in the Tower?

Hulet. Yes, Sir.

Mr. Secr. Morrice. Did not we tell you that you were charged with cutting off the Head of the King?

Hulet. Yes, Sir, you did tell me so.

L. Ch. Bar. Then you had Time to provide your Witnesses.

H. I was a close Prisoner.

L. Ch. Bar. Where were you on the Day of Execution?

H. I was a Prisoner then at *Whitehall*.

L. Ch. Bar. For what?

H. Upon this Account we were taken up, about Seven or Nine of us were taken up, we were all Serjeants, Three of *Col. Hacker's*, the rest of *Pride's* and *Fairfax's*, and about Ten of Clock at Night were discharged.

L. Ch. Bar. For what were you Imprisoned?

H. For refusing to be upon the Scaffold.

Burden. It was a Common Speech among the Soldiers that *Hulet* cut off the King's Head.

L. Ch. Bar. How long before did you see *Hulet* upon the Guard?

Burden. The Day before, but not that Day, nor the Day after.

L. Ch. Bar. Will *Hulet*, the Evidence against you is Two-fold, one concerning the cutting off the King's Head, the other that you were in a Frock; if it be proved that you did not cut off the King's Head, yet if you were in a Frock in that Place, it will not excuse you; if you have any Thing to say I will be glad to hear it.

Hulet. I desire the Persons may be examined upon Oath, Prisoners and others, who was the Person that did it; I mean *Hacker*, *Huncks*, and *Phayre*.

L. Ch. B. You that are the Prisoner, for that which concerns *Hacker* and *Phayre*, you know what Conditions they are in, one already tried for his Life, the other a Prisoner in the Tower; and *Hacker* saith himself he doth not know the Person at all; you that are Prisoner at the Bar, the Court conceives you have had Time to get your Witnesses here; you were informed of the Business before you came here, yet notwithstanding, it is conceived there are some here that can say something tending to the Information of the Jury, but they are not to be admitted upon Oath against the King.

Sheriffs Officer Examined.

Sheriffs Officer. My Lord, all that I can say in this Business is this; one of our Fellows that belong to our Master, the Sheriff, *John Rooten* by Name, he and I were talking about this very Story, and he did acquaint me with this, That he was in *Rosemary Lane* a little after the Execution of the

the King, drinking with the Hangman, that he did urge him whether he did this Fact; God forgive me, saith the Hangman, I did it, and I had Forty Half-crowns for my Pains.

Abraham Smith Examined.

Smith. My Lord, as soon as that Fatal Blow was given I was walking about *Whitehall*, down came a File of Musketeers; the first Word they said was this, Where be the Bargemen? Answer was made, Here are none; away they directed the Hangman into my Boat; going into the Boat he gave one of the Soldiers a Half-crown; saith the Soldiers, Watermen, away with him, be gone quickly; but I fearing this Hangman had cut off the King's Head, I trembled that he should come into my Boat, but dared not to examine him on Shore for fear of the Soldiers; so out I lanced, and having got a little Way in the Water, said I, who the Devil have I got in my Boat? Says my Fellow says he, why? I directed my Speech to him, saying, are you the Hangman that cut off the King's Head? No, as I am a Sinner to God, saith he, not I; he shook every Joint of him; I knew not what to do; I rowed away a little further, and fell to a New Examination of him when I had got him a little further; tell me true, said I, are you the Hangman that hath cut off the King's Head? I cannot carry you, said I; no, saith he, I was fetched with a Troop of Horse, and I was kept a close Prisoner at *Whitehall*, and truly I did not do it; I was kept a close Prisoner all the while, but they had my Instruments. I said I would sink the Boat if he would not tell me true; but he denied it with several Protestations.

William Cox Examined.

Cox. When my Lord *Capell*, Duke *Hamilton*, and the Earl of *Holland*, were Beheaded in the *Palace-yard* in *Westminster*, my Lord *Capell* asked the Common Hangman, said he, did you cut off my Master's Head? Yes, saith he, where is the Instrument that did it? He then brought the Ax, is this the same Ax, are you sure, said my Lord? Yes, my Lord; saith the Hangman, I am very sure it is the same; my Lord *Capell* took the Ax and kissed it, and gave him Five Pieces of Gold, I heard him say, Sirrah, wert thou not afraid? Saith

the Hangman, they made me cut it off, and I had Thirty Pound for my Pains.

Richard Abell Examined.

Abell. My Lord, in the House of one Mr. *Bramston* I did hear *Gregory* himself confess that he cut off the King's Head.

L. Ch. Bar. You that are the Prisoner at the Bar, the Court is willing to give all full Scope, as far as may be, to examine the Truth of the Fact; as they would not condemn the Innocent, so they would not acquit the Guilty; do you desire further Time to examine the Truth of it before it be put upon the Jury.

H. I do confess I do not understand the Laws, I desire I may have a little further Time; I desire the Jury may be withdrawn; I desire a Fortnight's Time, but submit to the Court.

A Stranger Examined.

Stranger. My Lord, I was with my Master in the Company of *Brandon*, the Hangman, and my Master asked *Brandon* whether he cut off the King's Head? Or no? He confessed in my Presence that he was the Man that did cut off the King's Head.

Lord Chief Baron. You that are the Prisoner at the Bar, the Court was willing to give you as much Time as they could by Law; the Jury hath been charged, and Evidence given; all those Witnesses have been examined that we could hear of now for your Advantage; I will say something to you, it was here said, and given in Evidence, that *Axtell* did send a Boat to fetch the Common Hangman; if we knew more that might tend to your Advantage it should be repeated. You Gentlemen of the Jury, mark it; There is first *Gittens*, he swears that he was in the same Regiment that you were in Twelve or Thirteen Years together; he saith that he and others were called together upon their Oaths, and you amongst the rest; and there was an Oath of Secrecy, asking them if they would do such an Act; they all refused to do it, so did you; but he said, the Day of Execution of the King this *Gittens* got among them, and one Captain *Webb* kept the Door, and he saw you fall before the King, and ask

ask the King Forgiveness; he said he heard your Voice, and so knew you; and that the Day after Captain *Atkins* said, you shall see *Hulet* shortly come to Preferment; and he saith he did not see you in the Regiment that Day; and that *Hewson* and all the Regiment used to call you *Father Gray-beard*. *Stammers* he saith, that you was Capt. Lieutenant to Col. *Hewson's* Troop; and you coming to *Lutterels-Town*, you asked him several Particulars, whether he had been in the King's Army? Walking up and down, you said you were the Man Beheaded King *Charles*, and for that you had One Hundred Pounds; this he swears positively. *Sampson Toogood*, he swears he saw you come to Col. *Hewson's* in 1650, you talked to him very familiarly; when you were gone he asked who you were; he told him you were a Captain-Lieutenant of Horse; and he said that you were a very Mettled Fellow, and did the King's Business upon the Scaffold; that afterwards, Col. *Hewson's* Regiment being discharged, you came to be of *Pretty's* Regiment, and that he told this Gentleman that he was assured by Colonel *Hewson*, that it was you that either cut off the King's Head, or took it up, and said, *Behold the Head of a Traytor*. He saith afterwards, that in 1654 in *Carlow* he asked you the same Question, and you demanded of him who told him? He answered he was told by several Persons, namely, *Hewson* and *Pretty*; you said, what I did I will not be ashamed of, and if it were to do I would do it again; he says again at another Time, that you were One of the Two Persons who were then upon the Scaffold, and that there were Staples to enforce the King to submit, if he struggled; *I had that about me which would have done the Business*. And he says, in *November* last you came to a Meeting upon a Summons of Col. *Jones*, and then did avouch *Lambert's* Quarrel; he said you were too forward heretofore; you said, if it be the Business of the King's Head I will never deny it, call me to an Account when you will. He heard many call you *Grandfire Gray-beard*. Then there is another Witness, I think his Name is *Davies*, he was in Discourse with you, drinking Two Pints of Wine; it is reported (says he) you took up the King's Head, and said, *Behold the Head of a Traytor*, and he desired you to resolve him whether it was so or

no ; you said again, it had been demanded often, but you never resolved any Man ; you said, whosoever said it then, I say now, *It was the Head of a Traytor. Nelson*, he swears, that about Six Years since he was in Discourse with *Axtell* about it, and *Axtell* told him they were a couple of Stout Men to your Knowledge, (speaking to *Nelson*;) I was one to do in that Affair; we made Choice of Two, *Walker* and *Hulet*; who gave the Blow ? *Walker*, but *Hulet* took up the Head. Colonel *Tomlinson*, he says, that there were Two on the Scaffold, one that had a Gray Beard, and the other somewhat Flaxen. *Nelson* also heard by Colonel *Pretty* that you did it. And then *Ben. Francis*, he says, they had both Frocks alike, one a Black Beard, one a Gray-grisled Periwig, and believes he was about your Stature. This is the Substance of what the Witnesses have said against you ; Gentlemen, you hear what has been proved on Behalf of the Prisoner, that is, if you believe the Witnesses that are not upon Oath, that *Brandon* confessed it, and denied he did it, several Witnesses that say *Brandon* confessed he did it, and that he told them of a Sum of Money that was given him. Gentlemen of the Jury, you see the whole Point in this Case, the Indictment is for Compassing and Imagining the Death of his late Majesty ; the Evidence goes Two Ways, Part of the Witnesses one Way, Part another Way ; if you believe either of them then you ought to find that the Defendant is Guilty ; if either he was in the Frock, though he was not the Man that did it, or if you find he did it, it is a clear Testimony of his Imagining and Compassing the Death of the King. Now it rests upon you to consider the Evidence that is given for the Common Hangman, that he should be the Man that did it, that the Prisoner at the Bar did not cut off the Head ; on the other Side, if you do believe he was One of the Two in the Frocks, upon the Relations of these Persons, *Pretty*, *Hewson*, and *Axtell*, if you believe it upon these Relations, and after his own Confession, that if he was to do it again he would do it ; then upon this Evidence that is given you, he is to be found Guilty, though he did not cut off the King's Head. You have heard the Evidence on all Sides, it rests upon you, pray go together, and consider of your Verdict. I have

have forgotten one Thing, God forbid I should omit any Thing that may be as well for Advantage, as against the Prisoner at the Bar: If you take it singly, if you have nothing of other Proof, what another Man says of me doth not charge me, unless there be something of my own; what you have heard from himself, and what you have heard by Relations from others, that is to be left to you. It is my Duty to tell you, that which is said by another of me, that alone is not a pregnant Evidence; you must remember withal what is sworn positively, what he said himself; this being said, I must leave it to you. Pray go together.

After a more than ordinary Time of Consultation the Jury returned to their Places.

Clerk. Are you agreed of your Verdict?

Jury. Yes.

Cl. Who shall say for you?

Jury. Our Foreman.

Clerk. Will. Hulet, alias Howlet, Hold up thy Hand. Gentlemen, look upon the Prisoner at the Bar: How say you, is he Guilty of the High-Treason, &c.

Foreman. Guilty.

Cl. Look to him Keeper. What Goods and Chattels?

Jury. None to our Knowledge.

And then the Court adjourned till to Morrow Morning Seven a Clock in this Place.

October 16. 1660. Sessions-House Old-Bailey.

Proclamation of the Court.

Clerk of the Crown. Set Isaac Penington, Hen. Marten, Gilb. Millington, Rob. Tichburn, Owen Roe, Rob. Lilburn, Hen. Smith, Edm. Harvey, John Downs, Vincent Potter, Aug. Garland, Simon Meyne, James Temple, Pet. Temple, and Tho. Wayte, (in all Fifteen,) to the Bar, which was accordingly done.

Clerk of the Crown. You the Prisoners at the Bar, those of the Jury that were last called are to pass, &c. if you, or any

any of you, will Challenge all, or any of them, you must Challenge them when they come to the Book, before they be Sworn.

Charles Pitfield, Christopher Abdy, Richard Cheyney, George Tirrey, Daniel Cole, — Hall, Richard Abell, Edmund Starnel, Edmund Pitt. Will. Witcomb, Fran. Dorrington, and T. Nicoll, Called and Sworn of the Jury.

Clerk of the Crown. Isaac Penington, Henry Marten, &c. Hold up your Hands. Gentlemen that are Sworn, look upon the Prisoners at the Bar. You shall understand that the said *Isaac Penington, &c.* together with, *&c.* (*here the Indictment was read,*) unto which they and every of them have severally pleaded Not Guilty, and for their Trial have put themselves upon God and the Countrey, which Countrey you are: Now your Charge is to enquire, *&c.*

K. Coun. May it please your Lordships, and you Gentlemen of the Jury, the Prisoners at the Bar stand Indicted of High-Treason, for Compassing and Imagining the Death of the late King CHARLES the First, of Glorious Memory. The Indictment sets forth several *Overt-acts*, by which that Imagination doth appear the Treason itself is the Compassing: Our Evidence will go on thus; we shall prove against them all that they did sit (in that which they called the High Court of Justice) upon the King, whilst the King was a Prisoner at the Bar, most of them did Sentence him; all but *Harvey* and *Penington* did Sign that Bloody Warrant for his Execution; and that one of the Prisoners at the Bar was in before the High Court of Justice, consulting of bringing it about. When we have proved this I think it is enough. Pray call the Witnesses.

Harvey. My Lord, according to my Duty I shall save this Honourable Court all their Trouble. I do humbly acknowledge that I was and did Sit in that Court, but I did not Sign and Seal that Warrant.

L. Ch. Bar. It is very true, Mr. *Harvey*.

Har. I hope your Lordships, and this Honourable Bench, will give me leave (in that Time which you shall appoint) to shew you my Reasons that I did it not of Malice, and it was an Error not of Will, but of Judgment; what I have to say will be (thought not for the annihilating) yet for the Extenuation of my Crimes.

Lord

Lord Ch. Bar. Say now what you will, only consider with yourself whether you have not already spoken as much as you can for the Extenuation of it; say what you can further.

Harvey. Let me speak a Word.

L. Ch. Bar. Go on Sir.

Harvey. My Lord, I do humbly conceive if I had conceived that I had then done any Thing of Treason I would not for all the World have been there; I was present when His Majesty did not own the Court, desiring that both His Houses might meet, that he might have a Conference with them for settling of the Peace: My Lord, heartily and unfeignedly I did endeavour that that Advice might be embraced, and that no Sentence might be pronounced. I was one of those (with some others) that did so far promote it, that that which they called the High Court of Justice did withdraw to consider of it, but the Major Part of it did dissent. But, my Lord, I was so unhappy as to return to the Court, though with Reluctancy; I went with a Resolution not to go more to them, nor never did; I was summoned to come to the Court: I did declare I abhorred the Thing; that my Soul had Reluctancy against it, and I was greatly grieved and troubled at it, and I did refuse any more to come, or to consult about any Thing that followed, in order to His Majesties Death, and to Sign, and to Seal. And that I may make it appear to your Lordships I pray I may have a Witness or Two examined.

L. Ch. Bar. Name them. Did he Sit upon the Day of Sentence?

Council. Yes he did; he followed it.

Mr. Edward Corbet Examined.

Mr. Corbet. My Lord, the Attestation which I this Day make solemnly in the Holy Fear of Almighty God, and in Awful Reverence of this great Tribunal, hath only this great Scope, that Colonel *Harvey*, the Prisoner at the Bar, upon that Day of Signing the Warrant for that horrid Execution of His most Excellent Majesty, not in Title only, but in Reality, he finding me as I was passing to the Duty of my Place in the Assembly of Divines then Sitting, he seized on me, and desired Privacy

Privacy of Time and Place, that he might disburthen his Soul and Spirit unto me ; it was then about Nine a Clock in the Forenoon to the best of my Remembrance.

L. Ch. Bar. What Day, I beseech you?

Corbet. To the best of my Remembrance upon the *Monday* ; Sir, says he, I desire to make known unto you the deep Horror that sits upon my Spirit, the Sadness and Grief, above all Expressions, that my present Case has cast me into ; I have endeavoured, Sir, says he, in the Sight of God, all that possibly I could to divert them from the Sentence, I could not prevail. Sir, says he, I have been this Morning sollicitured with very much Earnestness that I would go and Sign, and Seal, and Order that wicked Execution, which my Soul abhors ; and, Sir, that I might be removed and withdrawn from all Temptations and Sollicitations of such a wicked Fact, I beseech you spare me your Time this Day, which I did, in the Presence of another Divine, till Four a Clock that Afternoon, and then I parted and went to *Westminster*, to Sign and Assist that which I did apprehend my bounden Duty, the Vindication of the Assembly of Divines, wherein we did testify, that it was far from our Thoughts to advise the Parliament to any such unheard-of unnatural Act.

Council. We do admit, that after he sat, and Sentence past, that he did not Sign.

Harvey. Be pleased to call one *Mr. Thomas Langham*, he hath heard me often declare against that Act.

Mr. Thomas Langham Examined.

Lord Chief Baron. What do you say, *Mr. Langham*, as to this Business?

Langham. Sir, about the Time that His Majesty was executed in 1648, I was then Servant to Alderman *Sleigh*, who was formerly Partner with this Colonel, and he frequently came to Alderman *Sleigh's* every Night ; and the Alderman having some Business with him, would ask him what News there was at the High Court of Justice ; he usually told him the Passages upon any Day ; the Alderman asked him, if so be he thought His Majesty might escape ? He told them this, that he would do what lay in his Power that he might that he might not come to have Sentence past ; upon *Saturday*, being
also

also there, he told him this, that he had done what lay in his Power to hinder the Sentence, but could not attain his Design; but he was resolved he would never Sign nor Seal to His Majesties Death, for it was utterly against his Judgment.

Harvey. There is another, (my Lord,) and but one more, that is *George Langham*.

Lord Chief Baron. To what Purpose? This is believed.

Harvey. I shall only crave and supplicate this Favour of this Honourable Bench, that this Honourable Bench will be pleased, on my Behalf, (since I have endeavoured it Two Months before,) to present my humble Petition to His Sacred Majesty, and to intercede for Mercy and Favour on my Behalf, myself, my Wife, and Thirteen Children, shall humbly pray.

The Court received the said Petition, and promised to present it to His Majesty.

Millington. I do not know whether it will be seasonable for me to interpose now I would speak a little.

L. Ch. Bar. Is he next in Order.

Clerk. No, my Lord, *Penington* is next.

Penington. I am unwilling to be troublesome to the Court. This I shall take the Boldness to say, (which shall be nothing but Truth,) I never had a Hand in plotting, contriving malicious Practices against His Majesty, demonstrated by my utterly refusing to Sign the Warrant for His Execution, though often solicited thereto; I cannot deny but I sate amongst them that Day of the Sentence but I cannot remember I was there when the Sentence passed. My sitting amongst them was out of Ignorance, I knew not what I did, therefore I hope you will believe there was nothing of Malice in any Thing I did; I was misled to it.

L. Ch. Bar. I cannot hear you, (he not speaking aloud.)

Penington. It was Ignorance, not Malice, that led me; if I had known what I had done I would not have done it; I humbly pray that there may be a favourable Construction made of it I humbly leave it with you. I did my Duty to pray for the King, but had no Malice to act willingly against him.

Clerk. Henry Marten.

Council.

Council. He did both Sign and Seal the Precept for Summoning the Court, and the Warrant for Execution; for almost every Day, and particularly the Day of Sentence.

Marten. My Lord, I do not decline a Confession so as to the Matter of Fact, the Malice set aside, *Maliciously, Murderously, and Traiterously.*

Council. If you have any Thing to say to that we will prove it.

L. Ch. Bar. That I may inform you in it, there is Malice implied by Law, Malice in the Act itself: That which you call Malice, that you had no particular Intention or Design against the King's Person, but in relation to the Government, that will not be to this present Business, if it should extenuate any Thing that would be between God and your own Soul; but as to that which is alledged in the Indictment, *Maliciously, Murderously, and Traiterously*, they are the Consequences of Law. If a Man meet another in the Street, and run him through, in this Case the Law implies Malice; though but to an ordinary Watchman, there is Malice by the Law in the Fact; if there was no such expressed Personal Malice as you conceive, yet the Fact done implies Malice in Law.

Mr. Solicitor-General. My Lord, he does think a Man may Sit upon the Death of the King, Sentence him to Death, Sign a Warrant for his Execution, *Meekly, Innocently, Charitably, and Honestly.*

Marten. I shall not presume to compare my Knowledge in the Law with that of that Learned Gentleman; but according to that poor Understanding of the Law of *England* that I was capable of, there is no Fact that he can Name that is a Crime in itself, but as it is Circumstantiated. Of killing a Watchman, as your Lordship instanced, a Watchman may be killed in not doing his Office, and yet no Murder.

Lord Chief Baron. I instanced that of a Watchman, to shew there may be a Malice by Law, though not expressed; though a Man kill a Watchman, intending to kill another Man, in that Case it is Malice in Law against him: So in this Case, if you went to kill the King when he was not doing his Office,

Office, because he was in Prison, and you hindred him from it, the Law implies Malice in this. It is true, all Actions are Circumstantiated, but the killing of the King is Treason of all Treasons.

Justice Foster. If a Watchman be killed it is Murder; it is in Contempt of Magistracy, of the Powers Above; the Law says that Contempt adds to the Malice.

Council. We shall prove against the Prisoner at the Bar, (because he would wipe off Malice,) he did this very Mer- rily, and was in great Sport at the Time of the Signing the Warrant for the King's Execution.

Marten. That does not imply Malice.

Ewer Sworn.

Council. Come Sir, you are here upon your Oath, speak to my Lords and the Jury; you know the Prisoner at the Bar very well, you have sometimes served him, were you present in the *Painted Chamber*, *January 29. 1648*, at the Signing the Warrant, the Parchment against the King?

Ewer. The Day I do not remember, but I was in that Chamber to attend a Gentleman there; I followed that Gentleman, (looking at *Mr. Marten*,) I followed that Gentleman into that Chamber.

L. Ch. Bar. After what Gentleman?

Ewer. *Mr. Marten.* My Lord, I was pressing to come near, but I was put off by an Officer, or Soldier there, who told me I should not be there; I told him I was ordered to be by that Gentleman. My Lord, I did see a Pen in *Mr. Cromwell's* Hand, and he marked *Mr. Marten* in the Face with it, and *Mr. Marten* did the like to him; but I did not see any one set his Hand, though I did see a Parchment there with a great many Seals to it.

Sir Parbeck Temple Sworn.

Council. What do you know of that Gentleman in his Carriage of this Business?

Sir Parbeck Temple. My Lords, I being present in Town when that horrid Murther was contrived against the late King, there came some Persons of Honour, Servants to the late King, to my Father's House, *Sir Edward Partridge*, to engage me to join with them to attempt the King's Escape.

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In order whereunto they told me, nothing would tend so much to His Majesties Service as to endeavour to discover some Part of their Counsels, for that it was resolved by *Cromwel* to have the King tried at the *High Court of Justice*, as they called it, the next Day, and desired me (if possible) to be there to discover their Counsels, whereby the King might have Notice, and those that were to attempt his Escape. In order whereunto, the next Day, by giving Money to the Officer of the *Painted-Chamber* I got in by Day-light in the *Lobby* of the Lords House; I espied a Hole in the Wall, under the Hangings, where I placed myself till the Council came, where they were contriving the Manner of trying the King when he should come before them: And after the manner of Praying, and private Consults amongst themselves, when their Prayer was over; there came News that the King was Landed at Sir Robert Cotton's Stairs; at which *Cromwel* run to a Window, looking on the King as he came up the Garden, he returned as White as the Wall: Returning to the Board, he speaks to *Bradshaw*, and Sir Henry *Mildmay*, how they and Sir William *Bereton* had concluded on such a Business; then turning to the Board said thus, *My Masters, he is come, he is come, and now we are doing that great Work that the whole Nation will be full of, therefore I desire you to let us resolve here what Answer we shall give the King when he comes before us; for the first Question that he will ask us will be, by what Authority and Commission do we try him? To which none answered presently.* Then after a little Space, Henry Marten, the Prisoner at the Bar, rose up, and said, in the Name of the Commons and Parliament assembled, and all the good People of England; which none contradicted, so all rose up, and then I saw every Officer that waited in the Room sent out by *Cromwel* to call away my Lord such a one, (whose Name I have forgot,) who was in the Court of *Wards Chamber*, that he should send away the Instrument, which came not, and so they adjourned themselves to *Westminster-hall*, going into the Court of *Wards* themselves as they went thither. When they came to the Court in *Westminster-hall* I heard the King ask them the very same Question that *Cromwel* had said to them.

Mr. Solis

Mr. Solicitor. Gentlemen, the Prisoner at the Bar confesses his Hand to the Warrant for Executing the King; you see by his Servant how Merry he was at the Sport; you see by his Witness how Serious he was at it, and gave the Foundation of that Advice upon which they all proceeded; and now he says he did it not Traiterously, I humbly conceive he means it was Justifiable.

Sir P. Temple. At another Time I was in Town on a Friday, and wanting Horses, I went to *Smithfield*, where I saw the Horses of State of his late Majesty to be Sold in the Common Market; at which I called to the Rider, said I, What makes these Horses here? Says he, I am to Sell them; Why, said I, there's the King's Brand upon them, C. R. and he shewed them me; said I, Will you sell these Horses? What Price? He asked me Three or Fourscore Pound apiece; says I, Who warrants the Sale of these Horses? Says he, *Mr. Marten*, and *Sir Wil. Brereton*. Afterwards I heard the Horses were taken into the *Mews* by the Prisoner at the Bar, and *Sir Wil. Brereton*.

Council. Was this before the Trial?

Sir P. Temple. It was in 1642 or 1643.

Council. That's nothing to this Business.

Marten. My Lord, the Commission went in the Name of the Commons Assembled in Parliament, and the Good People of *England*; and what a Matter is it for one of the Commissioners to say, Let it be acted by the *Good People of England*?

Mr. Sol. Gen. You know all *Good People* did abhor it; I am sorry to see so little Repentance.

Marten. My Lord, I hope that which is urged by the Learned Council will not have that Impression upon the Court and Jury that it seems to have, that I am so obstinate in a Thing so apparently ill: My Lord, if it were possible for that Blood to be in the Body again, and every Drop that was shed in the late VVars, I could wish it with all my Heart: But, my Lord, I hope it is Lawful to offer in my own Defence that, which, when I did it, I thought I might do. My Lord, there was the House of Commons, as I understood it, (perhaps your Lordships think it was not

a House of Commons,) but then it was the Supream Authority of *England*; it was so reputed both at Home and Abroad. My Lord, I suppose he that gives Obedience to the Authority in being *de facto*, whether *de jure*, or no, I think he is of a Peaceable Disposition, and far from a Traitor. My Lord, I think there was a Statute made in *Henry* the Seventh's Time, whereby it was provided, That whosoever was in Arms for the King *de facto*, he should be indemnified, though that King *de facto* was not so *de jure*: And if Supream Officers *de facto* can justify a War, (the most pernicious Remedy that was ever adjudged by Mankind, be the Cause what it will,) I presume the Supream Authority of *England* may justify a Judicature, though it be but an Authority *de facto*. My Lord, if it be said that it is but a Third Estate, and a small Parcel of that, my Lord, it was all that was extant. I have heard Lawyers say, that if there be Commons appurtenant to a Tenement, and that Tenement be all burnt down except a small Stick, the Commons belong to that One small Piece, as it did to the Tenement when all standing. My Lord, I shall humbly offer to Consideration, whether the King were the King indeed, such a one whose Peace, Crowns, and Dignities, were concerned in Publick Matters: My Lord, he was not in Execution of his Offices, he was a Prisoner. My Lord, I will not defer you long, neither would I be offensive; I had then, and I have now, a Peaceable Inclination, a Resolution to submit to the Government that God hath set over me. I think his Majesty that now is is King upon the best Title under Heaven, for he was called in by the Representative Body of *England*. I shall, during my Life, long or short, pay Obedience to him: Besides, my Lords, I do owe my Life to him if I am acquitted for this. I do confess I did adhere to the Parliament's Army heartily; my Life is at his Mercy; if his Grace be pleased to grant it I have a double Obligation to him.

Mr. Sol. Gen. My Lord, this Gentleman, the Prisoner at the Bar, hath entred into a Discourse that I am afraid he must have an Answer in Parliament for it. He hath owned the King, but thinks his best Title is the Acknowledgement of

of the People; and he that hath that, let him be who he will, hath the best Title: We have done with our Evidence.

Marten. I have one Word more, my Lord; I humbly desire that the Jury would take Notice, that though I am Accused in the Name of the King, that if I be Acquitted the King is not Cast: It doth not concern the King that the Prisoner be Condemned, it concerns him that the Prisoner be Tried; it is as much to his Interest, Crown, and Dignity, that the Innocent be Acquitted, as that the Nocent be Condemned.

Mr. Sol. Gen. My Lord, this puts us now upon the Reputation of our Evidence; and you may see how necessary it is to distinguish between Confidence and Innocence; for this very Person that desires you to have a Care how you Condemn the Innocent, he doth seem to intimate to you that he is an Innocent Person at the Bar; and yet confesses he did Sit upon the King, did Sentence him to Death, that he Signed the Warrant for the Execution, and yet here stands that Person that desires you to have a Care of Condemning Innocence: What is this at the Bottom of it, but that my Fact is such as I dare not call it Innocence, but would have you to believe it such? Gentlemen of the Jury, was it your Intention the King should be so Tried as this Prisoner moved? It will concern you to declare, that the People of *England* do abhor his Facts and Principles; every Fact the Prisoner hath confessed himself, the Sitting in that Court, which was Treason; his Sentencing was Treason; Signing the Warrant for Execution was the Highest of Treasons: Gentlemen, all that he hath to say for himself is, there was an Authority of his own making, whereby he becomes Innocent; but we hope out of his own Mouth you will find him Guilty.

Gilbert Millington. I desire you to hear me: I come not hither to dispute, but to acknowledge; I will not trouble you with long Discourses. My Lord, it is not fit for Wise Men to hear them, I am not able to express them; I will not Justifie myself, I will acknowledge myself Guilty. My Lord, the Reason why I said the last Day *Not Guilty*, was in Re-

spect of being upon the Scaffold, and Murthering the King, and those Things, but I will wave all Things if your Lordship will give me Leave, and will go unto the lowest Strain that possible can be ; I will confess myself Guilty every VVay. I was awed by the Present Power then in Being. This I leave with you, and lay myself at your Feet, and have no more at all to say, but a few VVords in a Petition, which I desire you will please to accept, and so I conclude.

Council. VVe do accept this Honest and Humble Confession, — and shall give no Evidence against him to aggravate the Matter.

L. Ch. Bar. Your Petition is accepted, and shall be read.

Robert Titchburne. My Lord, when I first pleaded to the Indictment, it was, *Not Guilty in Manner and Form as I stood Indicted*; my Lord, it was not then in my Heart either to deny or justifie any Tittle of the Matter of Faët; my Lord, the Matter that I was led into by Ignorance my Conscience leads me to acknowledge; but, my Lord, if I should have said Guilty in Manner and Form as I stood Indicted, I was fearful I should have charged my own Conscience as then knowingly and maliciously to act it. My Lord, it was my Unhappiness to be called to *so sad a Work* when I had so few Years over my Head; a Person neither Bred up in the Laws, nor in Parliaments where Laws are made. I can say with a clear Conscience, I had no more Enmity in my Heart to his Majesty than I had to my VVife that lay in my Bosom. My Lord, I shall deny nothing; after I was Summoned I think truly I was at most of the Meetings; and I do not say this, that I did not intend to say it before, but preserving that *Salvo* to my own Conscience, that I did not maliciously and knowingly do it, I think I am bound in Conscience to own it: As I do not deny but I was there, so truly I do believe I did Sign the Instrument: And had I known that then which I do now, (I do not mean, my Lord, my Afflictions and Sufferings, it is not my Sufferings make me acknowledge,) I would have chosen a Red-hot Oven to gone into as soon as that Meeting: I bless God I do this neither out of Fear, nor Hopes of Favour, though the Penalty that may attend this Acknowledgment may be Grievous;
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my Lord, I do acknowledge the Matter of Fact, and do solemnly protest I was led into it for Want of Years ; I do not justify either the Act or the Person ; I was so unhappy then as to be Ignorant, and I hope shall not now, (since I have more Light,) justify that which I was Ignorant of ; I am sure my Heart was without Malice ; if I had been only asked in Matter of Fact at first I should have said the same ; I have seen a little : The Great God before whom we all stand hath shown his Tender Mercy to Persons upon Repentance ; *Paul* tells us, though a Blasphemer, and a Persecutor of Christ, it being done ignorantly, upon Repentance he found Mercy ; my Lord, Mercy I have found, and I do not doubt but Mercy I shall find. My Lord, I came in upon the Proclamation, and now I am here I have in Truth given your Lordship a clear and full Account, whatever the Law shall pronounce, because I was Ignorant ; yet I hope there will be Room found for that Mercy and Grace that I think was intended by the Proclamation, and I hope by the Parliament of *England*. I shall say no more, but in pleading of that humbly beg that your Lordships will be Instrumental to the King and Parliament on that Behalf —

Council. We shall give no Evidence against the Prisoner ; he says he did it ignorantly, and I hope and do believe he is Penitent ; and as far as the Parliament thinks fit to shew Mercy I shall be very glad.

Owen Rowe. I have not much to say, I never had any Ability ; therefore, my Lord, it was never my Intent upon my Plea, as was said before, to deny any Thing I have done ; for I was clearly convinced that I ought to confess it before, and I do confess against myself, that I did Sit there several Times, and to the best of my Remembrance I did Sign and Seal the Warrant for his Execution ; and truly, my Lord, it was never in my Heart to contrive a Plot of this Nature. How I came there I do not know, I was very unfit for such a Business, and I confess I did it ignorantly, not understanding the Law, so was carried away hidden in the Business, not understanding what I did ; therefore, my Lord, I humbly intreat this Honourable Court that you will consider of it, and look upon me as one that out of Ignorance did it ;

and if I had known of my Act, I would rather have been torn in Pieces with a Thousand Horses. When I heard of the Declaration and Gracious Pardon of his Majesty, I confess I went to my Lord Mayor's, and laid hold of it, and I thought my Life as secure as it is now in my own Hands; but I do wholly cast myself upon the King's Mercy; and as I have heard he is a Gracious King, full of Lenity and Mercy, so I hope I shall find it. I was never against Government; it is a Blessed Thing that we have it; I hope all the Nations will be happy under it. I shall submit to his Majesty and Government; I can say no more; I was not brought up a Scholar, but was a Tradesman, and was meerly Ignorant when I went on in that Business; I do humbly intreat your Lordships that you would, as tenderly as may be, present my Case to the King, whom I rest upon, and leave all to your Lordships Wisdom and Discretion to do what you will concerning me —

Council. We accept his Confession, and do hope he is Penitent before God as well as before the World.

Robert Lilburn. Be pleased to give me Leave to speak a few Words; I shall be Ingenuous before your Lordships. I shall not willfully nor obstinately deny the Matter of Fact; but, my Lord, I must, and I can, with a very good Conscience, say, that what I did I did it very innocently, without any Intention of Murder; nor was I ever Plotter or Contriver in that Murder; I never read in the Law, nor understood the Case throughly; whatever I have done I have done ignorantly.

L. Ch. B. Because you shall not be mistaken in your Words, God forbid that we should carp at your Words; the Word Innocent hath a double Acceptation, Innocent in respect of Malice, and Innocent in respect of the Fact.

Lilburn. The Truth is, my Lord, I was for the withdrawing of the Court when the King made the Motion to have it withdrawn; and upon the Day (my Lord) that the King was put to Death, I was so sensible of it, that I went to my Chamber and mourned, and would, if it had been in my Power, have preserv'd his Life. My Lord, I was not at all any Disturber of the Government; I never interrupted the

the Parliament at all. I had no Hand in those Things, neither in 1648, nor at any other Time. I shall humbly beg the Favour of the King, that he would be pleased to grant me his Pardon, according to his Declaration, which I laid hold on, and rendered myself according to the Proclamation.

Council. We shall say nothing against him.

Henry Smith. My Lord, I shall not desire to spend your Lordship's Time; what I have done I did it ignorantly, not knowing what I did. I shall not deny the Matter of Fact; but as to that I pleaded *Not Guilty* before, it was in relation to that which I was Ignorant of the Law of the Nation; I have not been Bred to it, I humbly desire your Lordships to consider that what I did was done ignorantly, not knowing the Law.

Council. VWhat was that?

Smith. I do confess that I Sat in the Court, I do not remember that I Signed or Sealed, (both the Warrants being shewed him) adds, my Lords, I confess the Hands are like mine, but whether they be so, or no, I know not.

Council. Then we will prove it. Is the Seal yours?

Smith. I do not know.

Council. Do you confess you were in the *Painted-Chamber* the 29th of *January*? Do you remember any Thing of that?

Smith. I do not certainly know that.

Council. My Lord, he hath said enough. Shall the Jury doubt of that which he believes?

Smith. I do not remember that I did write it.

Council. My Lord, we press it no farther, he hath confessed enough.

Smith. My Lord, what I have done I beseech you consider I did it in Ignorance, not knowing the Law; there were those about me that were able to call me, who were then in Authority, whom I dared not disobey, if so, I had been in Danger also.

Council. My Lords, we have done; be pleased to direct the Jury upon these several Evidences and Confessions.

Smith. I beg one Word, I must declare this, I can speak it seriously, that from the first to the last of these unhappy

Wars, I have been a Man of Trouble and Sorrow; I have been (as many Wiser Men have been) run upon Error. My Lord, I know not what I have done; I pray that this Court will be pleased to be a Mediator for me, that I may have his Majesties Favour, and that this Petition may be received on my Behalf. (*He then delivered his Petition to the Court.*) I can rejoice for that Happy Settlement that is again in the Nations, and declare cheerfully my humble Submission to that Government, and desire the Lord will bless and prosper his Majesty and the Parliament in these Nations; my Lord, I rendered myself according to the Proclamation; I shall say no more.

Lord Chief Baron. Gentlemen, you of the Jury, these Prisoners that stand before you at the Bar, that is, Mr. *Harvy*, *Penington*, *Marten*, *Millington*, *Titchburne*, *Roe*, *Lilburn*, and Mr. *Smith*, there are Eight, these are Persons who by the *Act of Indempnity* are to be Tried for their Lives for the Treasons they have committed, but no Execution is to be until the Parliament have further considered the Matter that is before us, and you are to find the Matter of Fact: What Mercy they shall find hereafter that is to be left (as I told you) to the Consideration of the Parliament, we are to proceed according to Law and Justice. They are all Indicted for Compassing and Imagining the Death of our late Sovereign Lord, *Charles* the First, of most Glorious Memory; and for that that hath been opened to you there are so many Overt-acts, which are as so many Evidences to prove that Indictment, which is the Compassing and Imagination of their Hearts to put the King to Death. If any one of these be proved, that is alone enough to prove the Indictment, which is the Compassing and Imagining of the Heart, that is the Treason, the other are but Evidences. If any Thing burst forth from the Mouth, or from the Hand, as here it is, these are Evidences of the Imagination of the Heart; for this you have heard by the Confession of all of them, that they did enough to find the Indictment; they have all of them confessed their Sitting upon the King in that Traiterous Assembly, which they called the *High Court of Justice*. There is One of the Overt-acts expressly laid down in the

the Indictment, they took upon them an Authority to consider how to put the King to Death, and that they did put the King to Death; but they were mistaken, as some of them said, that the actual Murdering of the King was not their Meaning. But if they did that which tended towards it they are all guilty of Treason; it is all one to you if they be guilty of any of these; either Sitting, Sentencing, or Signing, they are Guilty; and all of these, except Two, are Guilty of all these. The Matter is clear and pregnant; there is something hath been said by many of them with a great deal of Expression of Sorrow; they did confess (all but one) the Fact; and that which tended to their Defence was Ignorance; but that doth not at all concern you. It will be taken in its due Time into Consideration; the several Deportments of them all, that is for another Judicature. Your Business is to find the Matter of Fact; only this let me repeat unto you, there is Mr. Harvey, who hath pleaded several Matters which are not proper for you, expressing his Sorrow and Penitence, we shall not trouble you with that, because they are for the Consideration of another Court; we ought all to have a tender Compassion, ought to be sorry with and for them that are sorrowful. The like of Alderman Penington. Marten hath done that which looks forward more than backward, I could wish with all my Heart he had looked more backward; that is, to Repentance of that which is past, than Obedience to that which is to come; it is a Trouble to repeat those Things which he said himself, and truly I hope in Charity he meant better than his Words were. Millington, he hath done the like with the rest, confessed the Fact, put himself upon Mercy wholly, and said, he *was over-awed by the present Power*. This I repeat, not as any Thing to you, who are to consider only Matter of Fact. For Alderman Titchborne, he hath spoken very fully, and truly very conscienciously—upon the whole Matter, acknowledges his Ignorance, his Sorrow, his Conviction in Point of Conscience; and I beseech God Almighty to incline his Heart more and more to Repentance. *They that Crucified Christ, (to use his own Words,) through Ignorance, found Mercy.* Colonel Roe, he confesses the same wholly, and casts himself upon the King's Mercy, and he thought

thought it a blessed Thing that the King was restored again, and submitted wholly to Mercy ; and so did Mr. *Lilburn*, he said he went to his Chamber and mourned the Day the King was Beheaded ; I am very glad he had so early a Sense of it. *William Smith*, he did it ignorantly, he was not guilty thus far ; that was, he was led on, even like one silly Sheep that follows another, by what Relation I have heard of the Person ; at that Time he was not thought fit to be of the Privy-Council. There is nothing more to say to you, the Fact is confessed by them all. It is so clear you need not go from the Bar.

After a little Consultation between the Jurors they returned to their Places—

Clerk of the Crown. Are you agreed of your Verdict ?

Jurors. Yes.

Clerk. Who shall say for you ?

Fury. Our Foreman.

Clerk. Edmund Harvey. Hold up thy Hand. How say you, is the Prisoner guilty of the Treason whereof he stands Indicted, and hath been Arraigned ? Or not Guilty ?

Fury. Guilty—

Clerk. Look to him Keeper.

Clerk. What Goods and Chattels, &c ?

Fury. None to our Knowledge.

The same Question being asked touching Alderman Penington, Henry Marten, Gilbert Millington, Alderman Titchborne, Col. Roe, Col. Lilburn, and Henry Smith, they were severally found Guilty by the Fury in Manner aforesaid. All which Prisoners finding the Place where they stood to be cold and unwholsome, prayed the Court they might have Leave to be returned to the Prison till the Court shall be pleased to command their further Attendance, which was granted.

The rest of the Prisoners aforesaid, together with W. Heveningham, brought to the Bar.

Clerk. You the Prisoners at the Bar, those Persons last called of the Jury are to pass, &c. If you, or any of you, will Challenge all, or any of them, you must Challenge them when they come to the Book, before they be Sworn.

Clerk. Charles Pilfield, Christopher Abdy, George Terry, Daniel

niel Cole, Anthony Hall, Richard Abel, Edmond Starnel, Edmond Pit, William Witcomb, Francis Dorrington, Thomas Nicoll, Robert Sheppard, in all Twelve, Admitted and Sworn of the Jury.

Clerk. If any Man can inform, &c.

Clerk. *John Downes*, Hold up thy Hand, &c. and the like were said to all the other Persons following, viz. *Vincent Potter, Augustine Garland, Simon Meyne, James Temple, Peter Temple, Thomas Waite, and William Heveningham*; look upon the Prisoners at the Bar you that are Sworn; you shall understand that *John Downes*, the Prisoner at the Bar, stands Indicted, &c.

King's Council. May it please your Lordships, and you Gentlemen of the Jury, the Prisoners at the Bar stand Indicted of High-Treason, for Compassing and Imagining the Death of the late King *Charles the First*, of Blessed Memory; the Evidence by which we shall make out against them this Treason of their Heart, in Compassing and Imagining the King's Death, (for that is the Substance of the Indictment, and all that follows is but Evidence) will be by proving that they did sit as Judges in that pretended Court of Justice when the King stood a Prisoner at the Bar; that they did Sentence him to Death every one of them; and we shall prove against all but one of them that they did Sign that Bloody Warrant for Murthering of the King; and against one of them that stands at the Bar we shall prove (to his Shame and Confusion of Face) that he did Spit in the Face of our late Sovereign Lord.

John Downes. My Lord, I have humbly pleaded *Not Guilty*; not with any Intention to justify the Fact, or to extenuate it; but, my Lord, in Regard there is that charged in the Indictment, that my Conscience saith I am not guilty of, I durst not plead Guilty; otherwise, my Lord, I should not have troubled you with *Not Guilty*, but should have humbly taken the Shame and Confusion for it; it is my Intention to put the Court to as little Trouble as possible I can; therefore I do most humbly intreat of your Lordships, and the Court, that you will permit me to acknowledge that which will be a sufficient Evidence of my Conviction, if the Court so please, and

and that you will be pleased to hear me on my Behalf; if I can humbly offer to you some special Thing which is not in the Case of another, (I could wish it had, if it had we had none been here,) I do humbly acknowledge, that to sit upon that Occasion in that Place is Evidence enough to convince what is in the Heart, except by some signal Actions that might happen from some that might shew how it was his Unhappiness to be put into such a Business, yet had neither Malice nor Treason in his Heart: I do humbly conceive that there is that Goodness in you, that this Plea, this Allegation, will be most Welcome to you. My Lord, though there was such a Thing, such an unparall'd Thing, I was thrust into this Number, but never was in Consultation about the Thing: God is Witness I was not put in till the Act was ready to pass in a second Commitment, by one of the same Number; I denied it, yet they said I must make one, I must take my Share, so I came in. Never did I know of His Majesty's being brought to *London* till he came. My Lords, in this great Unhappiness I think it is some Mitigation, and I judge it a Happiness, that so Wise, Prudent Persons as this Court consists of, that you are my Judges, that can look back, my Lord, and consider what the Times were then, and can, my Lord, account it a Happiness that there is a special Wisdom in you, that in Nice Cases you will be able to make a Distinction. I do indeed, my Lords, sadly and seriously confess, that I was divers times with those Persons that were called Judges of the late King, at several of their Meetings and Sittings; it is long ago, I cannot say how often; I was several times there. My Lord, I do humbly beg of your Lordships, (I will trouble you as short as I can,) that you would be pleased so far to favour me as to give me leave to give you a short Account of the Business; the last Day His Majesty came to that which was called then a Court, several times he was brought, (I think Thrice,) and His Charge was given in Words high enough; he said *He could not acknowledge their Jurisdiction*; that was the Answer, my Lord, till the last Day; then I confess I was there. He that was called *President* did again and again tell him the Heads of his Charge; told him he had several Days given for

for Consideration, that this was the last Day that the Court (as they call'd themselves) would give him his final Answer; if he stood still to Day, and move to the Jurisdiction of the Court, they must take all *pro Confesso*, and would give Sentence: My Lord, to this His Majesty indeed with a great deal of Composedness and Wisdom told them to this Effect, I cannot own your Jurisdiction; you have Power enough indeed, I wish you may use it well; but because you are so ready to give a Sentence, which may be sooner given than avoided, I think fit to let you know that I have something that I desire to speak to my Parliament, for I have something to offer unto them that will be satisfactory to you all, and will be for the immediate Settlement of the Kingdom in Peace.

—My Lord, he that was called President answered, that no Notice could be taken of any Thing, but only whether he would Answer to his Charge: Upon that, my Lord, His Majesty indeed, (with the greatest Earnestness that ever I beheld, and yet in no unseemly Passion,) told them they might soon repent of such a Sentence; that he did conjure them to withdraw once again, and to consider of it, if it were but half an Hour, or (saith he, if that be too much for you) I will withdraw. My Lord, here I can make my Appeal to him that must Judge me when you have done with me, I had not a murderous nor a traiterous Thought against him; but, Sir, I confess such deep Passions did fall upon me, that truly myself I was not. I remember the Persons between whom I fate, as it fell out, were one Mr. *Cawly*, and Col. *Walton*, these Two I fate betwixt, these were the very Words I spake to them, *Have we Hearts of Stone? Are we Men?* They laboured to appease me; they told me I would ruin both myself and them; said I, if I die for it I must do it. *Cromwel* fate just the Seat below me, the hearing of me made some Stir, Whispering, he looked up to me, and asked me if I were myself? What I meant to do that I could not be quiet? Sir, said I, no, I cannot be quiet; upon that I started up in the very Nick; when the President commanded the Clerk to read the Sentence, I stepping up, and as loud as I could speak, spoke to this Effect these Words, or to the like Purpose; my Lord,

Lord, (said I) I am not satisfied to give my Consent to this Sentence. but have Reasons to offer to you against it, and I desire the Court may adjourn to hear me; presently he stepped up and looked at me; nay, saith he, if any one of the Court be unsatisfied the Court must adjourn: Sir, accordingly they did adjourn into the inner *Court of Wards*; when they came there I was called upon by *Cromwel* to give an Account why I had put this Trouble and Disturbance upon the Court? I did speak, Sir; to this Effect, (it is long ago, the very Words I think I cannot speak,) but to this Effect I did speak: My Lord, I should have been exceeding glad if the Court had been pleased to condescend to this gracious Expression; but it is not too late for me: I desire not his Death, but his Life, and that the Nations may be settled in Peace: The King now is pleased to offer, that if he might but speak with his Parliament he would offer to them such Things as should be satisfactory to us all. So (said I) what would you have? Your Pretence of bringing him to these Proceedings was, that after such a long and bloody War His Majesty would not condescend to such Concessions as might secure the Parliaments Party; but now you hear him, that he will give every one of us Satisfaction: I told them, sadly told them, (I think I may truly say more sadly then than at this Time,) that if they should go precipitantly on, and give Judgment upon him, before they had acquainted the Parliament with what the King was pleased to offer, we should never be able to answer it; the rather, my Lord, (and that I did press with all the little Understanding that I had,) if they did but consider the last concluded Order that the Parliament made after the passing of the Act for Trial, (that which was so called,) I say there was this Order that shut up all, that upon any Emergency that could not at that Time be thought on in the House, the Court should immediately acquaint the House with it. My Lord, I did infer as strongly as I could to them, that if this were not Emergent I could not tell what was: The King denied the Jurisdiction of the Court, and yet with all Vehemency desired to speak with his Parliament; were not these Emergencies? If not, I knew not what were Emergencies. My Lords, besides this,
there

there was another Thing I did press, that I thought was of greater Consequence than this, as to the Satisfaction of every Man's particular Conscience; that admitting (if it might be admitted) that the King was liable to His Subjects, that they might call him to an Account, and might Condemn him, (I beg your Pardon that I take the Boldness to make such Admissions,) but if such a Thing might be admitted, certainly it did exceedingly become those Judges that were to give such a Sentence, (not against a common Person, but against the greatest,) to be very well satisfied in Matter of Fact, to a full Evidence before them, that such and such Things that were said were true. I do acknowledge this, that to the best of my Apprehension, (I wish it had been so to others,) there was a great Shortness in this; I do humbly affirm this, that not one Member of the Court did hear one Witness *Viva Voce*; I did press that if the Court did give Judgment against the King, without a fair Examination, I said it was such a Thing as no Judge at any Assizes would do against a common Person; what I had was from *Peters*, and from some private Whispers from one of them that is gone, and hath received his Sentence and Doom. *Cromwell* did Answer with a great deal of Storm; he told the President, that now he saw what great Reason the Gentleman had to put such a Trouble and Disturbance upon them; saith he, sure he doth not know that he hath to do with the hardest-hearted Man that lives upon the Earth; however, it is not fit that the Court should be hindred from their Duty by one peevish Man; he said, the Bottom was known, that he would fain save his Old Master; and desired the Court, without any more ado, would go and do their Duty. Another that spoke to me in Answer was one that hath been before you, and hath received his Sentence, but is not dead, (and I desire I may not name his Name,) his Answer was to what I have said, that some Men were either Scepticks, or Infidels. After this I did go into the Speaker's Chamber, and there I did ease my Mind and Heart with Tears, God only knows. I have an unhappy Memory, I have slipt many Things.

Lord Chief Baron. Remember yourself by Papers, if you have any no Man will hinder you.

Downes. I have no Papers; but, my Lord, for the Truth of this I have said, there are some Witnesses that will make the Substance, the Effect, of this appear.

Lord Ch. Bar. Mr. Downes, there is one Particular before you come to the Witnesses, that after all these Convictions you signed the Warrant; you deny it, the Council will prove it.

Downes. I did never hope, or think, that any Thing I can say should be so satisfactory to you, but Things might be retorted upon me; and perhaps what I thought might be for extenuating my Crime may fall out to my Disadvantage: I understand you do proceed upon Three Particulars, either Signing the first Warrant for constituting the Court; to my Remembrance I know not of it; if my Hand was to it I have forgot.

Council. Your Hand is not to that, but we mean your Hand is to the Warrant for Execution,———pray shew it him. (It was shewn him.)

Downes. My Lord, how to reconcile that which hath been said before, with this that comes after, I leave it to you, I am totally at a Loss. When those Times were, how impetuous the Soldiers, how not a Man that durst either disown them, or speak against them. I was threatned with my very Life, by the Threats of one that hath received his Reward I was induced to it. Certainly, my Lord, it doth argue that there was not Malice Predominant; Love and Hatred cannot be at the same Time in one Person. Design, my Lord, what should be my Design? A poor, ordinary, mean Man. Surely, my Lord, I could not design any great Matters or Places. I knew myself unfit; I humbly beg you would give me leave to tell you a little what I got——

Mr. Sol. Gen. By your Favour, my Lord, the Prisoners at the Bar may say what they will by Way of Extenuation; but we expect that when they enter upon these Discourses they will save your Lordship's Time, and ours, by a publick Confession, and Evidence of Sorrow. We cannot spend so long Time to hear these long Discourses, we will rather prove it against every Man singly.

Downes.

Downes. I will trouble you no further, I do acknowledge all; I humbly submit, and beg your Favour, and leave myself upon my Countrey-men the Jury, and beg the King's Mercy specially. — Pray spare me one Word, that you would hear but a Witness or Two unto that Business.

Council. He doth confess he Sat and Signed; we believe he is Sorrowful, and against his Conscience he did Sign; and that he did it out of a Fear, and from a Threat; that he was overawed; (so was the Hangman too;) but after he had apprehended this Sorrow, and declared his Judgment upon the Fact, he Signed the Warrant.

Downes. My Lord, I do humbly beg his Majesties Mercy; I came in upon the Proclamation.

Vincent Potter. My Lord, my Condition requires Ease for my Body; (*he had a Fit of the Stone upon him at that same Time;*) I pray that the passing the Sentence for Execution may be suspended.

L. Ch. B. The Execution must be suspended, for you are within that Qualification.

Potter. I desire only this, I am not in a Condition to declare what I know, and would speak; I am mightily full of Pain; if I am under that Qualification, let me rest under that.

Council. Do you confess the Indictment? Or will you put us to prove it?

Potter. I am one that came in.

L. Ch. Bar. It is thus with you, whether or no did you Sit, Sign, or Act in this High Court of Justice against the King?

Potter. I will deny nothing; I confess the Fact, but did not contrive it; I am full of Pain.

Lord Chief Baron. According to the Demerit of the Case in Law you must receive Judgment here, but no Execution of that Judgment shall be until the King, by Advice and Consent of Lords and Commons, shall order the Execution of it; you are to be Tried now; do you confess you Signed the Warrant for Execution of the King?

Potter. I do confess it, my Lord.

Council. We do accept it.

Potter. I beseech you let me go to ease myself.

Lord Chief Baron. Officer, set a Chair for him; (*which was done;*) *Mr. Potter*, sit down.

Aug. Garland. May it please your Lordship, I came here this Day intending to have waved my Plea, and referred myself to this Honourable Court to be recommended to the King's Mercy and the Parliament; but hearing of some Scandal upon me more than ever I did hear till within these few Days, I shall desire your Favour in hearing of my Trial.

Mr. Sol. Gen. My Lord, he saith well; for if he had confessed the Indictment we should not have accepted it. [*Call the Witnesses.*]

Garland. I do confess this, I Sate; and at the Day of Sentence Signed the Warrant for Execution.

Mr. Sol. Gen. And we will prove that he spat in the King's Face.

Gar. I pray let me hear that, otherwise I would not have put you to any Trouble at all.

———— *Clench Sworn.*

Council. Do you know the Prisoner at the Bar, *Augustine Garland*?

Clench. I know him very well.

Council. Tell my Lords and the Jury how you saw him behave himself to our Sovereign Lord the King when he was at the Bar.

Clench. I was that Day at *Westminster-ball* when the King had Sentence; they hurried the King down; this *Mr. Garland* came down Stairs by them, towards the Bottom of the Stairs he spit in his Face at a little distance.

Council. Do you believe he did it on Purpose, upon your Oath?

Clench. I suppose he did it somewhat suspiciously in that Way; I did see the King put his Hand in his Left Pocket, but I do not know whether the King wiped it off.

Mr. Sol. Gen. The King wiped it off, but he will never wipe it off so long as he lives: He hath confessed that he Sate, that he Sentenced, and that he Signed: We say he contrived it at the beginning, and at last bid Defiance to the King, I shall desire he may be remembered in another Place.

Garland.

Garland. I do not know that I was near him at that Time ; I do not remember this Passage ; I am afraid he is an Indigent Person. If I was Guilty of this Inhumanity I desire no Favour from God Almighty.

L. Ch. B. I will tell you this doth not at all concern the Jury, but this Circumstance possibly may be considered in another Place.

Gar. I refer myself whether you be satisfied that I did such an Inhumane Act, I submit that to you ; I dare appeal to all these Gentlemen here, (looking upon the Prisoners,) or any other, whether they ever heard of it, nor was I ever accused for such a Thing till a few Days since ; but I wave my Plea, and refer myself to the Court : Now, my Lord, this is the Truth of my Case, there is that Honourable Gentleman, the Speaker of the House of Commons, knows I lived in *Essex* in the beginning of these Troubles, and I was inforced to forsake my Habitation ; I came from thence to *London*, where I have behaved myself fairly in my Way. Afterwards in 1648 I was chosen a Member into the Parliament ; in *June* 1648 I came in a Member of the Parliament. My Lord, after the Division of the House by the Insolency of the Soldiery, some came to me, and desired me that I would go to the House ; I was then at my Chamber at *Lincoln's-Inn* ; I forbore a Week and more ; said I, I do not expect to be admitted, for they look upon me as another Person ; said they, if you will go you shall have no Contradiction ; I went, and went in ; when I was in the First Business that came was the Business of Trial of the King, and it was put on me to be Chair-man for bringing in this Act for Trial ; I did not know how to contradict that Power or Authority, (be it what it will,) but I must obey ; (I fear my Ruin will follow it,) in that respect, my Lord, when I came there I was forced to run throughout what they had imposed upon me. — Having seen me I could not shrink from them for fear of my own Destruction, and thereupon I did go in, and did that which I have confessed to your Lordships, not out of any Malignity to his Majesty, I never had any Disrespect to him in my Life ; my Lord, I did not know which Way to be safe in any thing ; without Doors was Misery, within Doors was Mischief. I

do appeal to all that had any Thing to do with me; that I never did any Wrong to any that was of the King's Party, but helped them as I was able. My Lord, when the Government was thus tossed, and turned, and tumbled, and I know not what, and the Secluded Members came into the House, I knew not what to do in that Case neither. As soon as this Parliament had declared the Treaty, which was the Eighth of May, the Ninth of May I appeared before the Right Honourable the Lord Mayor of London, and did claim the Benefit of his Majesties Gracious Declaration, and to become a Loyal Subject, as in my Heart I always was; and my Lord Mayor being there, I hope he will testify that as soon as I heard of the Proclamation I rendered myself according to the Proclamation; my Lord, this hath been the Carriage of me, being always under Fear and Force; I refer myself to your Lordships.

Simon Meyne. When I was last here, my Lord, that I did then speak *Not Guilty* was not as to the Matter of Fact, but my Conscience telling of me that I had no Malice or ill Intention to his Majesty, that was the Reason. For Matter of Fact I shall acknowledge what I have done, and lye at his Majesties Feet for Mercy. I am an ignorant weak Man in the Law, I will confess the Fact.

Council. Did you Sign the Warrant for Summoning that Court? And did you Sign the Warrant for Execution of the King?

Meyne. I did Sit in Court

Council. Did you Sign the Warrant for Execution?

Meyne. My Lord, I knew not of the King's bringing up; I never was at any Committee.

Council. We do not ask you that; look upon the Warrant, and see if your Hand and Seal be not to it.

Meyne. My Lord, it is my Hand.

Council. Then, my Lord, we have done.

Meyne. My Lord, I acknowledge it is my Hand, by what Importunity it may be known to some here; I was very unwilling to it; I was told, what Fear was there when Forty were there before, and Twenty was of the *Quorum*? I was thereupon drawn in to set my Hand to it. My Lord, I never plotted

plotted nor contrived the Business. There was a Gentleman that told me, if I did offer to speak in the House, (pluck'd me down by the Coat, and he told me I should be sequestred as a Delinquent; (the Name of this Person I shall omit,) saith he, you will rather lose your Estate than take away the King's Life. I leave it with you.

James Temple. At the last Time I pleaded to the Indictment *Not Guilty*, but I shall now desire to see my Hand, and if it be my Hand I must confess all Circumstances must follow. (The Warrants being shewn him,) I do acknowledge it is my Hand to both; I never did consult concerning the Court.

Council. There are some worse than he, but he is bad enough.

James Temple. I refer myself to the King and Parliament, and presented a Petition, which was received by the Court.

Peter Temple. When I was here the last Time I pleaded *Not Guilty* — the Reason was, because there are divers Things in the Indictment that my Conscience tells me I am not Guilty of; for I had not a Malicious or Trayterous Heart against the King. To save your Lordships Time I will confess what I am Guilty of: I was in the Court, Sat there; if I see my Hand I shall confess it.

Council. Were you there when Sentence was given?

Temple. Yes, Sir.

Council. Shew him the Warrants, (which being shewed him,) I acknowledge they are my Hand, and refer it to your Lordships.

Council. Mr. *Wayte*, you heard the Charge read against you, what say you to it?

Thomas Wayte. Truly, my Lord, when I was here last I pleaded *Not Guilty*; I humbly desired then your Lordships to hear me a Word or Two. You promised me then I should be heard; I shall desire to speak for myself.

L. Ch. Bar. God forbid but you should.

Mr. Sol. G. By your Lordship's Favour we must speak first; if he will confess the Fact he may speak what he will. Did you Sit in the Court?

Waite. Yes.

Council. The Day of Sentence ?

Waite. Yes.

Council. Is your Hand to the Warrant for Execution ?

Waite. I know not ; pray let me see it. (It was shewn him.)
My Lord, I confesse it is like my Hand, but I do not remember it.

Council. If you do not acknowledge it it will be proved.

Waite. Truly, my Lord, I do believe it is my Hand.

Council. Then the Jury will not doubt it.

Waite. But I desire to be heard. I am loth to trouble you much ; I will tell you how I was brought into this Business. My Lord, I was a Member of that House that Erected this Court when the Treaty was in the *Isle of Wight*. Immediately after the Army came up I was utterly against that Act in the House. When the Army came up to purge the House I was much troubled at it ; I desired to know the Charge they had against them. Two or Three Days after I did move, and there were other Gentlemen that did move, to know what Charge there was. They sent Word we should have a Charge in due Time ; we sent, and none came, but said we should have it in due Time ; I went to those worthy Gentlemen to see them in Prison, and seeing nothing would be done, I took my Leave, and made Account to see them no more, and went down into the Country to *Leicestershire* ; I was sent for up several times ; I would not come with Threats upon Pain of Sequestration. My Lords, there were Petitions going up and down in the Country for bringing the King to that Business, which was against my Conscience. I went to *Rutlandshire*, I heard there were some things working there ; I used my Interest, and I thank God I stopped it ; I came then to *London* when all these Things were destroyed ; I came to *London* the Day before the Sentence was given ; I went to the House, (thought nothing ;) some were sent to the *Tower*, and I was sent for to the House, and my Name was in the Act unknown to me ; but one sent a Note in my Lord *Gray's* Name, that he would speak with me ; I went to him, and I said, my Lord,

Lord, what would you do with me? Saith he, I did not send for you; thereupon *Cromwel* and *Ireton* laid hold on me; said they, we sent for you, you are One of the High Court; no, said I, not I, my Judgment is against it; they carried me to the Court. When the King desired to speak with his Parliament, I rising up, one told me I must not be heard, for the President was to give Judgment, and said, there was an Order that none should speak in Court. Mr. *Downes* did move, and they did adjourn the Court, and I was glad I got out; *Cromwel* laughed, and smiled, and jeered in the *Court of Wards*. I hope your Lordship will be pleased to consider I was no Contriver, no Soldier that put the Force upon the House that erected the Court, none of the Law-makers, or did any Thing maliciously against the King. My Lord, I was looked upon with an Evil Eye for regarding the King's Friends in the Country; *Gray* he told me the King would not die, I hope he will not said I: The next Day, on *Monday*, I went to the House, they were labouring to get Hands for his Execution at the Door; I refused, and went into the House; saith *Cromwel*, those that are gone in shall set their Hands, I will have their Hands now. That Night I went to the Lord *Gray's*, and he said, I am afraid they will put him to Death, I said so also. My Lord, I have been a great Sufferer, I was drawn in, trepann'd into it; since being a Friend to the King's Friends, I am almost ruined in my Estate; I beseech your Lordships make the best Interpretation. I hope you will believe I was no Contriver; I humbly lay hold upon the King's Mercy and Favour. I came in upon the Proclamation; I pray that this Honourable Court will prefer my Petition to the King, and both Houses of Parliament, which the Court then received.

William Heveningham. My Lord, in 1648 we were under a Force, under the Tyranny of an Army; they were our Masters; for a Malicious and a Traiterous Heart I had not. I do absolutely deny the Signing the Warrant for Summoning the Court, and also that Warrant for Execution of the King; at the Time of Sealing I had that Courage and Boldness that I protested against it.

Council. We do not question him for that, but for Sitting

in the High Court of Justice, and that upon the Day of the Sentence, do you deny that?

Heveningham. My Lord, I cannot say positively.

Council. If you deny the Matter of Fact it must be proved.

Heveningham. I cannot say positively but it may be I might.

Council. Either say positively you did, or else let the Witnesses be called.

Heveningham. Truly, my Lord, I think I did, but my After-a^ctions ———

Lord Chief Baron. Mr. *Heveningham*, that shall be considered.

Council. My Lord, to Sit upon the Day of Sentence was High Treason in itself, and is an Evidence of Compassing and Imagining the King's Death.

Hev. I shall lay hold of the Declaration; I came in upon the Proclamation; I pray your Lordships to intercede for me to the King, and both Houses of Parliament; I pray the Mercy of this Court.

L. Ch. Bar. You of the Jury, they have all confessed, and therefore you may go together.

Simon Meyne. My Lords, I have forgot my Petition; it is at my Lodging, I desire I may send it at Night.

John Downes and *Peter Temple* prayed the like Favour.

L. Ch. Bar. Do, send them, they shall be received.

The Jury having consulted together a certain Time, they went to their Places.

Clerk. Gentlemen, are you agreed of your Verdict?

Jury. Yes.

Clerk. Who shall say for you?

Jury. Our Foreman.

Clerk. *John Downes*, Hold up thy Hand ——— Look upon the Prisoner; how say you? Is he Guilty of High Treason whereof he stands Indicted, and hath been Arraigned? Or not Guilty?

Forem. Guilty.

Clerk. Look to him Keeper. What Goods and Chattels, &c?

Forem.

Foreman. None to our Knowledge. And the like Verdicts at the same time passed in the same Manner against *Vincent Potter, Augustine Garland, Simon Meyne, James Temple, Peter Temple, Thomas Waite, and William Heveningham.*

Potter. I hope I may be freed from Irons, I am in Pain, and a Man of Bulk.

L. Ch. Bar. We can give no Order in it, we must leave it to the Sheriff.

Potter. I beg it of you, my Lord.

L. Ch. Bar. We must leave it to the Sheriff. *Mr. Heveningham,* you must withdraw from the Bar.

Clerk. Officer, bring down *Waller, Fleetwood, Hacker, Axtell, Hulet, Penington, Marten, Millington, Titchburne, Roe, Lilburne, Smith and Harvey,* and set them to the Bar, which was done accordingly.

Clerk. *Hardress Waller,* Hold up thy Hand. Thou hast been Indicted, and found Guilty of High Treason, what canst thou say why Judgment should not pass on thee to die according to Law?

Waller. My Lords, I am now, it seems, Convicted by Law, and so adjudged: Your Lordships the other Day on my Desire told me I might have Liberty to speak upon my Trial, I must now beg the like upon a Condemned Person.

L. Ch. Bar. You are Convicted, not Condemned.

Waller. My Lords, I was the first that pleaded Guilty, I bless God that he gave me a Heart to do it, I find most Peace in the doing of it; and since there is nothing left but Hopes of Mercy, I humbly submit it to your Lordships to hear me in this sad Condition, that that may make me seem more capable of Mercy. I have, my Lords, been so unhappy to have been transplanted out of my Country these Thirty Years, I have been but once these Eleven Years in *England,* this must needs make me a Stranger.

L. Ch. Bar. I must not hinder you because it is for Mercy that you plead, but consider with yourself whether it will not be better to give it in a Petition: I leave it to you, we can do nothing in Point of Mercy but Judgment.

Waller. Only this, (my Lord,) whether I am not the more capable of your Mercy?

L. Ch. Bar.

L. Ch. Bar. That you may understand it, the Act of Indemnity of Parliament hath excepted you; yet upon some Qualifications we are to proceed according to Law, that is, to go to Conviction and Judgment. The Act says, that after Judgment there shall be no Execution, but that it shall be suspended till a further Act of Parliament to be passed for that Purpose; so that in the mean Time we are to proceed no further than Judgment. That which concerns Mercy is referred to another Place. If you please to say any Thing to satisfy us, or to go by Way of Petition, it must be left to you, but what you say for Mercy is nothing to us.

Waller. I humbly thank your Lordships for this clear and noble dealing, and withal, I would beg that these People that are Witnesses of my Shame and Guilt, may know that it was a Force and Temptation upon me; I shall not insist much, I have said that I did plead Guilty, which was most safe to my own Conscience, yet I should make it appear that I did appear more to preserve the King from Trial and Sentence than any other.

Lord Finch. Sir *Hardress Waller*, I have heard of late of your Sorrow, which I was glad to hear of, because you are my Kinsman, both by your Father and Mother's Side, and also my Countrey-man; I was glad to hear of your great Penitence for that horrid Crime, and I would have been glad to have seen it now; advise with yourself, whether you do yourself any Good in speaking to extenuate, when you know there is no Man against whom there are such Circumstances of Aggravation as against you; consider whether a publick Penitence would not be more proper.

Waller. I beseech you report me both to His Majesty and Parliament, and receive me into your Grace, as being Penitent, truly Penitent: To say so now were a small Thing, for the fear of the Punishment may procure it; but I have been more Penitent when no Eye hath seen me but God; when I never imagined to be questioned for this Sin, then my Heart hath yearned in the Business; but I shall not trouble your Lordships, God holds forth Mercy, His Majesty holds forth Mercy, the Parliament holds forth Mercy. My Lords, let me say something to you, (though it be but a Word,) of the
Violence

Violence and Force of Temptation; you may have been under it, or may come to it; Christ himself was under it; we find that faithful *Abraham*, by the Power of a Temptation, delivered up his Wife to commit Adultery, which scarce a Hea-then would; we find that valiant *Peter* denied his Master; righteous *Lot* committed Incest. None abhors this Fact more than I do; I have done it so long beforehand, I need not be afraid to speak it in the Face of the Judge of all Men; that is all I shall say. I rendred myself Three Times; I had as much Opportunity to make my Escape as any Person whatsoever.

Lord Chief Baron. It is understood, Sir *Hardress*.

Clerk. Isaac Penington, Hold up thy Hand. Thou art in the same Condition as the former, what canst thou say for thyself why Judgment, &c?

Penington. My Lord, I have said what I have to say, and shall not trouble your Lordships any further.

Clerk. Henry Marten, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Marten. I claim the Benefit of the Proclamation.

Clerk. Gilbert Millington, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Millington. I shall not trouble you with long Discourses; I will say no more but this, I have made a publick Resentment of my Sorrow for this Offence formerly, and many times. I shall now desire no more, but humbly beg that I may have the Benefit of the Proclamation, and pray His Majesties most Gracious Pardon.

Clerk. Robert Tichburne, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Tichburne. My Lord, I will not trouble you with any Repetitions, I have made my humble Request before, I leave it with you.

Clerk. Owen Roe, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Roe. My Lord, I have no more to say than I said before.

Clerk. Robert Lilburn, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Lilburn. I shall refer myself without further Trouble to the Court; my Lord, I beg the Benefit of the Proclamation.

Clerk. Thomas Waite, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Waite. I can declare no more than what already; my Heart is sorry for what I have done; I beg the Benefit of the Proclamation.

Clerk. Edmund Harvey, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Harvey. My Lords, I have no more than what I have said before.

Clerk. John Downes, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Downes. I shall not trouble you any further, I shall desire the Benefit of His Majesties Proclamation.

Clerk. Vincent Potter, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Potter. My Lord, I do not know Law, I understand it not; I am not in a Condition to speak what I would have willingly spoke; I desire that God would have Mercy, and I look for Mercy from God, *and wept.*

Clerk. Augustine Garland, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Garland. I humbly desire your Lordship's charitable Opinion of me: Notwithstanding what has been objected against me, I humbly refer myself to the Parliament.

Clerk. George Fleetwood, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Fleetwood.

Fleetwood. My Lord, I have already confessed the Fact, I wish I could express my Sorrow, *and wept.*

Clerk. James Temple, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

J. Temple. My Lord, I can say no more, I beg the Benefit of the Proclamation.

Clerk. Simon Mayne, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Mayne. I have told you before, my Lord, I have no more.

Clerk. Peter Temple, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Peter Temple. My Lord, I came in upon the Proclamation, and I humbly beg the Benefit of it.

Cl. Thomas Waite, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself?

Waite. My Lord, I refer it to your Lordships.

Clerk. Francis Hacker, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Hacker. My Lord, I have nothing to say but what has been before your Lordships.

Clerk. Daniel Axtell, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Axtell. May it please your Lordships, my Case differs from the rest of the Gentlemen.

L. Ch. Bar. I would be loth to hinder you, but I must tell you, that what hath been over-ruled must not be spoke to; if you have any Thing against the Indictment, Matter of Law, go on.

Axtell. I have one Thing more that I did not then mention.

L. Ch. Bar. If it tend not as an Exception to the Indictment it is not to be heard.

Axtell. My Lord, then I shall apply myself to that Point;

I humbly conceive, my Lord, that my Overt-acts were not sufficiently set down in the Indictment, as might be sufficient in Law to Attaint me of High-Treason; I do not remember that the Overt-act that was applied to me in Evidence was charged in the Indictment; I have only that Exception, because of the Insufficiency of that Point. In the next Place, my Lord, there is not the right Additions to my Name; there are many Persons of the same Name; I am arraigned by the Name of *Daniel Axtell*, of *Westminster*, in the County of *Middlesex*, Gentleman. I think none knew me to live there, and inhabit there.

Lord Chief Baron. I would not interrupt you, this is past; you should have made your Exception to that as Master *Marten* did before concerning his Name; that should have been first done; you have appeared and pleaded to that Name, and it was, *late of Westminster*.

Axtell. My Lord, I have this to speak in Arrest of Judgment, that the Indictment being grounded upon that Statute of the Twenty-fifth of *Edward* the Third, it is either mistaken, or not pursued; my Lords, I did Yesterday give you the Judgment of the Lords and Commons concerning the Statute in relation to my Case; I say the Statute was mistaken, or not pursued.

Lord Chief Baron. That was offered before, Sir, as to the Matter of it.

Axtell. My Lord, I think not, I am mistaken if it were.

L. Ch. Bar. Then open it.

Axtell. My Lord, I do not find in that Statute that Words are an Overt-act, Words only.

L. Ch. Bar. This was over-ruled. The Things that you objected were these, that there is not any Overt-act that is laid that could be applicable to your Case; if it were not particularly applicable (you are found Guilty by the Jury,) it would be nothing: But there is an Overt-act, you were present at the Court, beating the Soldiers, sending for an Executioner: But for Words, if one Man should say, here is the King, go and kill him, this is Treason; but you were guilty in all according to Law. You being there, and doing this, you were not guilty only of the Words, but of all that was done; there

there is none but Principals in Treason. What we say and do to you we well know we must answer before God Almighty for it.

Axtell. I have but one Word more; truly I do appeal to God, before whom I shall have another Trial, I do not find myself Guilty either of Consulting, Contriving, or having a Hand in the Death of the King; I am Innocent, and I pray God that my Innocent Blood——

Lord Chief Baron. Pray Sir——

Axtell. May not cry——

Lord Chief Baron. You are now to speak in Arrest of Judgment.

Axtell. I have no more; I pray your Lordship's Favour and Mercy to me.

William Hulet, alias Howlet, Hold up thy Hand. Thou art in the same Condition, what canst thou say for thyself why Judgment, &c?

Hulet. Truly, my Lord, I have little further to say; if you had been pleased to give me further Time I should have cleared myself; I call God above to Witness upon this Account that I am as clear as any Man; I submit to the Mercy of the Court.

L. Ch. Bar. For that I do, (but cannot positively say it,) that at your Request (notwithstanding the Judgment will pass against you) there may be some Time till His Majesties Pleasure be known before any Execution will be upon that Judgment against you, in the mean Time we must proceed according to Law and Justice.

Proclamation for Silence whilst Judgment is giving.

The Lord Chief Baron's Speech before the Sentence pronounced against the aforementioned Prisoners found Guilty.

YOU that are Prisoners at the Bar, you stand here in several Capacities, yet all of you Persons convicted of the detestable and execrable Murder of our Sovereign Lord King
Charles

Charles the First, of Blessed Memory. Mistake me not, I do not say that you are all of you guilty of executing the Fact, but in Law, and in Conscience, (*pro tanto*, though not *pro toto*,) you are guilty of it, in that you prepared the Way and Means to it, in that you brought his Head to the Block, though you did not cut it off. You are here in Three Sorts, and I must apply my Words accordingly; and truly I do it with as much Sorrow of Heart as you have, many of you being Persons of liberal Education, great Parts; I say you are of Three Sorts. There are some of you, that though the Judgment of Death is to pass against you, by His Majesties Grace and Favour, and the Mercy under him, of the Two Houses of Parliament, Execution is to be suspended until another Act of Parliament shall pass to that Purpose, that is, all of you but Three; for those Three, the one of them that was last called, *William Heweningham*, he is in another Capacity too; for I presume some Time will be given to him to consider of something relating to him, before any Order will be given for his Execution; there are Two others of you, and that is *Daniel Axtell*, and *Francis Hacker*; and for you, as it yet stands before us, there is no Mercy, there is no room for it: But though you be in these several Classes, yet what I shall say will concern you all, because I do not know how it may fall with you; none of us knows how soon we may come to our Deaths, some (probably) sooner than others; all must come to it: You are now before the Tribunal of Man, but that is for Judgment for your Offence here, but there is another Judgment hereafter, and a Tribunal before which both you and we must stand, every Man here, and we must receive according to our Work; those that have done ignorantly, by a serious and unfeigned Repentance God Almighty may shew Mercy unto them. He hath reserved Mercy even for the greatest Offenders. *St. Paul* himself, when he persecuted Christ ignorantly, upon his Repentance he found Mercy; those of you that are not yet convicted in your Consciences of the Foulness of this horrid Fact, look into your Consciences a little more, and see if it be not a great Judgment for your former Offence, that you should be given over to a reprobate Sense; let me tell you, a seared Conscience, a bold Confidence, not upon good

good Grounds is so far from securing the Conscience, it may stifle perhaps the Mouth of Conscience, but it will rise up more in Judgment against you. Here you have made your Defence, and I do not blame you for it; Life is Precious, but remember the Thoughts of your Hearts are open; whether you did it ignorantly, covetously, or to get the Government into your own Hands, that I am not able to search into, God and you only know that; give me Leave to say something, perhaps I have repeated it by Parts before; God is my Witness what I speak I speak from mine own Conscience, and that is this, Gentlemen, because I saw it stuck with some of you, that is, that whatsoever the Case was, that by the Laws of these Nations the Fundamental Laws there could not be any Coercive Power over your King. I speak it again, because I would as near as I could speak the whole Truth, and would not mislead any Man in such a Case; remember *that no Power, no Person, no Community or Body of Men, (not the People, either Collectively or Representatively,) have any Coercive Power over the Person of the King by the Fundamental Laws;* for that, Gentlemen, I shall begin to shew you that which all of you might remember, that is, your Oaths of Allegiance and Supremacy, and to add to this that Obligation which all this whole Nation did oblige themselves to by the Parliament, without Question then rightly represented, and in Being the first of K. *James*; whereby to shew you, that not only Persons, but the Body Politick of the Nations, not only the single Members, but the Members in both Houses of Parliament, were Loyal and Obedient Subjects to the King, their Head, even to yeild a Natural and Humble Obedience and Allegiance. I told you the Act of 1 King *James*, when K. *James* came first into England, *We the Lords and Commons representing the whole People of the Nation, (the very Words of the Act are so primo Jacobi, Chap. 1.) Representing the whole Body of the Nation, do acknowledge an Humble Natural Liege Obedience to the King as Supreme, his Heirs and Successors; and in the Name of themselves, and all the People, humbly submit themselves until the last Drop of their Blood be spent in Defence of the King and his Royal Posterity; and therefore they did oblige themselves, and all the People of England, as far as they could represent them, (the*

Words are more full than I can express them,) and indeed it is so dark I cannot read them : They did acknowledge to be bound to him and his Imperial Crown. Remember these were not Words of Complement ; you shall find that they all of them, and so did so many of you as are Members of Parliament, yea, all of you, before you came into the House of Commons, did take the Oath of Allegiance, which was made after this Recognition, the Third and Fourth of King *James*, or otherwise were not to be Members. What was that Oath of Allegiance that you took ? It was, that you should defend the King, his Person, (that is in 3 *Jacobi*, Chapter the Fourth,) his Crown and Dignity : What was it ? Not only against the Pope's Power to depose, but the Words are, *or otherwise* ; look into the Act, and reflect upon your Conscience, and you shall find that all did swear to defend the King, his Crown and Dignity, and there it is called *Imperial Crown*. I would have you lay this to Heart, and see how far you have kept this Oath : Gentlemen, in the Oath of Supremacy, which you all took therein, you did further acknowledge that the King was the only Supreme Governour of this Realm : Mark the Words, I will repeat them that you may lay it to Heart ; you that have more Time to apply it to your Fact ; and you that have less Time, for ought I know, you have Reason to consider what I have to say ; you swore then, that the King by the Oath of Supremacy, which all of you have taken, or ought to have taken ; if any of you have not taken it, yet notwithstanding you are not absolved from the Obligation of it ; but most of you did take it ; there you did swear that the King is the only Supreme Governour of this Realm ; and you swore there that you would defend all Jurisdictions, Privileges, Preeminences, and Authorities, granted or belonging to the King's Highness, his Heirs, and Successors, or united and annexed unto the Imperial Crown of this Realm. For the First, if the King be Supreme then there is no Co-ordination. *Non habet Majorem, non habet Parem* ; that Word (*Imperial Crown*) is at least in Nine or Ten several Statutes ; it is the very Word in this Act that was made lately in Pursuance of former Acts concerning Judicial Proceedings.

deedings. And so in the Time of King *Charles*, they acknowledged him to be their Liege Sovereign; I say that Word *Supream*, and so the Word *Imperial Crown*, is in the First of Queen *Elizabeth*, the Third and the Eighth of *Elizabeth*, the Twenty-fourth of *Henry* the Eighth, Chap. 12. there it is said this Kingdom is an *Imperial Crown*, *subject to none but God Almighty*. Before these Times, you shall find in the Sixteenth of *Richard* the Second, the Statute of *Præmunire*, the Crown of *England* subject to God alone. I will go higher, *William Rufus*, (some of you are Historians, and you shall find the same in *Eadmerus*, and also in *Matthew Paris*, shortly after *William Rufus* his Time,) when he wrote to the Pope he Challenged, and had the same Liberty in this Kingdom of *England*, as the Emperor had in his Empire; (mistake me not, I speak only as to the Person of the King,) I do not meddle of Rights between the King and Subjects, or Subject and Subject; you see in this Case concerning the Death of His Majesties Dear Father, and our Blessed Sovereign, of happy Memory, he doth not judge himself, but according to Law; that which I assert is as to Person of the King, which was the Priviledge of Emperors, as to their Personal Priviledges, if he had offended, and committed an Offence, he was only accountable to God himself. I will come back to what I have said; you swore to be faithful to the King as *Supream*. The King of *Poland* hath a Crown, but at his Oath of Coronation it is conditioned with the People, that if he shall not Govern according to such and such Rules they shall be freed from their Homage and Allegiance. But it differs with our King, for he was a King before Oath. The King takes his Oath, but not upon any Condition; this I shew you, to let you see that we have no coercive Power against the King. The King of *England* was anointed with Oil at his Coronation, which was to shew that Absolute Power, (I do not say of Government,) but of being accountable to God for what he did: The Law saith, *The King doth no Injury to any Man*; not but that the King may have the Imbecilities and Infirmities of other Men, but the King in his Single Person can do no Wrong: But if the King command a Man to beat me, or to disseize

me of my Land, I have my Remedy against the Man, though not against the King. The Law in all Cases preserves the Person of the King to be untouched; but what is done by his Ministers unlawfully, there is a Remedy against his Ministers for it; but in this Case, when you come to the Person of the King, what do our Law-books say he is? They call it, *Caput Reipublicæ, Salus Populi*, the Lieutenant of God; and let me tell you, there was never such a Blow given to the Church of *England*, and the Protestant Religion. There was a Case, and that of the *Spencers*, you shall find in the 7th Report of the Lord *Cook*, in *Calvin's* Case, that Homage is due to the King in his Politick Capacity; and then they made this damnable Inference, that therefore if the King did not demean himself as he ought, that he should be reformed, *pure aspertee*, by Asperity, Sharpness, or Imprisonment: But these were condemned by Two Acts of Parliament in Print, that they could not do that even in that Case; one was called the Banishment of *Hugh Spencer*; and the other is in 1 *Edward 3.* upon the Roll. My Masters, in the first of *Henry the Seventh* you shall find it in the Printed Seven Books, he saith, *That as to the Regality of his Crown he is immediately Subject unto God.* Mark the Doctrine of the Church of *England*, Gentlemen; I do not know with what Spirit of Equivocation any Man can take that Oath of Supremacy: You shall find in the Articles of the Church of *England*, the last but One or Two; it is that Article which sets forth the Doctrine of the Church of *England*; they say, that the Queen, and so the King, hath the Supream Power in this Realm, and hath the Chief Government over all the Estates of the Realm; the very Words are so; this was shortly after making the Act; the Articles were in 1552, and she came in 1558, or 1559; it is to shew you the King hath the chief Government over all the Estates within the Nation; and if you look upon it, you shall find it was not only the Judgment of the Church, but of the Parliament at the same Time. They did confirm this Article so far, that they appointed that no Man should take, or be capable of a Living, but those

those that had taken that Oath. God forgive those Ministers that went against it. The Queen, and the Church, were willing that these should be put into Latin, that all the World might see the Confession of the Church of *England*, and of the People of *England*; you may read it in *Cambden*: I have told you how, and wherein, the chief Power consisted; not in Respect the King could do what he would; no, the Emperors themselves did not challenge that, but this they challenge by it, that they were not accountable to Man for what they did: No Man ought to touch the Person of the King: I press it to you in Point of Conscience; you see in the Scripture, in *Psalms* 51. the *Psalms* of Mercy, whereby we ask Pardon of God for our great Offences; I think none of you in this Condition but will join in this; you know the Adultery and Murder that *David* committed, this Penitential *Psalms* was made for that; what doth he say? *Against thee, thee only have I sinned, &c. tibi soli peccavi, Domine*; not because he had not sinned against Man, for 'tis plain he had sinned both against *Bathsheba* and *Uriah* too; but because he was not liable to the Tribunal of Man, he was not bound nor accountable to any Man upon Earth. And now, my Masters, I beseech you consider, that some of you for ought I know suddenly, and some of you for ought I know not long after, all of us we do not know how soon, must come to make a right Account to God of what we have done. After this Life you enter into an Eternity, an Eternity of Happiness, or of Woe; God Almighty is merciful to those that are truly penitent; the Thief upon the Cross, and to all that are of a penitent Heart. You are Persons of Education, do not you go on in an obstinate perverse Course, for Shame of Men, even this Shame which you now have, and which you may have when you come to die; a sanctified Use may be made of it; you pay to God some Part of that Punishment which you owe to him for your Sins. I have no more to say, but the next Thing I have to do, is to give the Sentence, the Judgment, which truly I do with as unwilling a Heart as you do receive it. You Prisoners at the Bar, the Judgment of the Court

Court is this, and the Court doth award that, &c. and the Lord have Mercy on your Souls.

Court adjourned till *Friday Morning Seven a Clock.*

Friday, October 19. 1660.

Set *William Heveningham* to the Bar.

Serjeant Keeling. May it please your Lordships, the Prisoner at the Bar, *William Heveningham*, hath been Indicted of High-Treason, for Compassing and Imagining the Death of the late King, of Blessed Memory; he has been Tried, the Jury has found him Guilty: I do humbly move your Lordships in the Behalt of the King that you will proceed to Judgment.

Clerk. William Heveningham, Hold up thy Hand. What canst thou say for thyself why Judgment, &c?

Heveningham. My Lords, I have nothing more to say than I said formerly, only I plead the Benefit of the Proclamation, and cast myself upon the Mercy of our most Gracious Sovereign, and desire your Lordships to be Mediators on my Behalf.

Lord Chief Baron. By the Act of Indempnity (of which you claim the Benefit, and we ought to take Notice of it) we are to proceed to Judgment, but no Execution of this Judgment is to be until by another Act of Parliament, by Consent of the King it shall be ordered. And therefore I need not speak any more of that, or any Exhortation to prepare yourself for Death; our Work is only to give Judgment. The Judgment of the Court is this, and the Court doth award, that you the Prisoner at the Bar be led back to, &c. and the Lord have Mercy upon your Soul.

THUS having given the Reader a most Impartial View of every Passage occurring in this so Solemn and Legal Indictment, Arraignment, Trial, and Condemnation, of these Twenty-nine Black Regicides, with their several Pleas and Defences in their own Words, it may be also some Additional Satisfaction to let the Reader know the Time and Man-
ner

ner of the Death of such of them who were according to the Sentence Executed. For their last Discourses and Prayers, as they were made in a Croud, and therefore not possible to be taken exactly, so it was thought fit rather to say nothing than give an untrue Account thereof, chusing rather to appear Lame, than to be supported with imperfect Assistances.

On *Saturday* the 13th of *October*, 1660, betwixt Nine and Ten of the Clock in the Morning, Mr. *Tho. Harrison*, or Major-General *Harrison*, according to this Sentence, was upon a Hurdle drawn from *Newgate* to the Place called *Charing Cross*, where within certain Rails lately there made, a Gibbet was erected, and he Hanged with his Face looking towards the *Banqueting-House* at *Whitehall*, (the Place where our late Sovereign of Eternal Memory was Sacrificed;) being half Dead he was cut down by the Common Executioner, his Privy Members cut off before his Eyes, his Bowels burned, his Head severed from his Body, and his Body divided into Quarters, which were returned back to *Newgate* upon the same Hurdle that carried it. His Head is since set on a Pole on the Top of the South-East End of *Westminster-Hall*, looking towards *London*. The Quarters of his Body are in like Manner exposed upon some of the City Gates.

Monday following, being the Fifteenth of *October*, about the same Hour, Mr. *John Carew* was carried in like Manner to the same Place of Execution; where having suffered like Pains, his Quarters were also returned to *Newgate* on the same Hurdle which carried him. His Majesty was pleased to give, upon Intercession made by his Friends, his Body to be Buried.

Tuesday following, being the Sixteenth of *October*, Mr. *John Cook*, and Mr. *Hugh Peters*, were about the same Hour carried on Two Hurdles to the same Place, and Executed in the same Manner, and their Quarters returned in like Manner to the Place whence they came. The Head of *John Cook* is since set on a Pole on the North-East End of *Westminster-Hall*, (on the Left of Mr. *Harrison's*,) looking towards *London*; and the Head of Mr. *Peters* on *London-Bridge*.

Bridge. Their Quarters are expos'd in like Manner upon the Tops of some of the City Gates.

Wednesday, October 17, about the Hour of Nine in the Morning, *Mr. Thomas Scott* and *Mr. Gregory Clement* were brought on several Hurdles; and about One Hour after *Mr. Adrian Scroop* and *Mr. John Jones* together in one Hurdle were carried to the same Place, and suffered the same Death, and were returned, and disposed of in like Manner.

Mr. Francis Hacker and *Mr. Daniel Axtell* were on Friday, the 19th of *October*, about the same Time of the Morning, drawn on One Hurdle from *Newgate* to *Tyburn*, and there both Hanged; *Mr. Axtell* was Quartered, and returned back, and disposed as the former; but the Body of *Mr. Hacker* was by his Majesties great Favour given entire to his Friends, and Buried.



FINIS.

*Some occasional Speeches, and Memorable passages of
Major General Harrison's, after his coming to
Newgate, With his Speech upon the Ladder.*

THE day of his coming to *Newgate* from the *Tower*, at night he sent his Wife word that that day was to him as his Wedding-day.

When the sentence was pronounced, he said, whom men have Judged God doth not condemn, *blessed be the Name of the Lord.*

And as he was carried away from the Court through the croud, the people shouted, *And he cryed, Good is the Lord for all this; I have no cause to be ashamed of the cause that I have been engaged in.* Some Friends askt him how he did, he answered, very well; and cannot be in a better condition if I had the desires of my Heart; we must be willing to receive hard things from the hands of our Father, as well as easie things: when he came to *Newgate* there was Chains put upon his Feet; And he said *Welcome, Welcome, Oh this is nothing to what Christ hath undergone for me; this is out of his great loving kindness and faithfulness, and my God is All-sufficient in all Conditions.* And also soon after his coming into the Dungeon in order to his Execution, a Woman belonging to the Gaol, who was sent to make clean the Room, and to make a Fire for him, was askt when she came out by divers people (whereof some were scoffers) how the Major General behaved himself, and what he said. To which she answered, she knew not what he had done to deserve to be there, but sure she was that he was a good Man, and that never such a Man was there before, for he was full of God, there was nothing but God in his Mouth; so that it would have done any one good to have been near him, or with him; and his discourse and frame of heart would melt the hardest of their hearts.

Sometime after he was put into the Hold, Three Ministers of the City were sent by the Sheriff to discourse with him.

And their discourses was to endeavour to convince him,
First, *Of being Guilty of the Kings Blood.*

Secondly, *Of Mr. Love's Death.*

Thirdly, *Of breaking the Old Parliament.*

Fourthly, *Of being loose in Family duties, and the Observation of the Lord's Day.*

Fifthly, *Of the justness of this thing that was upon him by reason of his iniquity.*

To which he answered, As to the Blood of the King, I have not in the least any Guilt lying upon me; for I have many a time sought the Lord with Tears to know if I have done amiss in it, but was rather confirmed that the thing was more of God than of men; And besides what I did, I did by Authority of Parliament, which was then the only lawful Authority, for God owned it by pleading their Cause, and Fighting their Battels for them; the Lords people owned it by rejoicing in it and praying for it; the Generality of people both in *England, Scotland and Ireland* owned it by yielding Obedience to it; Foreign Princes owned it by sending their Embassadors, therefore it was rather the act of the Parliament, than ours that were their servants. He declared that he was very tender of the King, insomuch that the King himself did confess that he found him not such a person as he was represented to him (when he was brought out of the *Isle of Weight*) and that he had some skill in Faces, so that if he had but seen his Face before, he should not have harboured such hard thoughts of him.

Secondly, As to Mr. *Love's* Death, I was in *Scotland* when he was Condemned, and had no hand in it in the least. They desired to know if he did not say then, *That if a Godly man so transgress as to bring himself under the Condemnation of the law, it were not a just thing for him to suffer for his sin;* he told them that he did not remember that he did say so, *But then.* said, *if a godly man did so transgress a righteous law, he ought to suffer as another man.*

Thirdly, The breaking of the Parliament was the Act and Design of General *Cromwel*, for I did know nothing of it; that morning before it was done he called me to go along with him to the house, and after he had brought all into disorder



order, I went to the Speaker and told him; Sir, seeing things are brought to this pass it is not requisite for you to stay there, he answered he would not come down unless he was pulled out; Sir, said I, I will lend you my hand, and he putting his hand into mine came down without any pulling, so that I did not pull him. Indeed afterwards I was glad the thing was done, for I did see they did intend to perpetuate themselves without doing those desirable things which were expected and longed for by the Lords people; and apprehending that God had done his work by them, and that he had some more worthy persons to come upon the stage; the Lord is my witness, that I had no self-end in that Action, but it was out of the Integrity of my heart as to the Lord. Afterwards when *Cromwell* and his Party did set up themselves in their room, I abhorred them and their ways, and suffered imprisonment by reason I would not joyn with them in that iniquity and go against my Conscience; there is nothing of this also that lies as Guilt upon me.

Fourthly, Concerning Family-duties, and the Observation of the Lord's-day, there stands my Servant let him speak to it; for he hath lived with me about this Eight years.

The Servant answered, *That those reports were very false; for his Master was a man in a manner wholly devoted to religious Exercises, very frequent in prayer, and diligent in expounding the Scriptures, to the great comfort and consolation of his whole Family, and that he was very zealous in observing the Lord's Day.*

Fifthly, he said that the Lord's Spirit did witness with his spirit, That all his sins were done away by Jesus Christ, and that he had peace with God, and was assured that this was not come upon him for his iniquity.

They discoursed of many other things, but these were the chiefeft, so far as one then present could afterwards remember. He parted very sweetly and lovingly with the said Ministers, and they told him that they came then by the desire of the Sheriff; But that they would willingly come again upon a Christian account.

Many Friends came to visit him whilst he was in that place; and found him full of the joy of the Lord; so that some apprehended he was cloathed with the Spirit of the Lord.

The Sheriff came that morning that he was to die, and told him that in half an hour he must be gone; He answered that he was ready and would not have him stay at all on his account. But the Sheriff left him to stay a little longer, and in the mean time, he was longing for the Sheriffs coming, and as his Friends judged he was in haste to be gone, and said, he was going about a great work for the Lord that day, and that his support was, that his sufferings was upon the account of Jehovah the Lord of Hosts: he said, he looked upon this as a clear answer of his prayers; for many a time said he, have I begged of the Lord, That if he had any hard thing, any reproachful work, or contemptible service to be done by his People, That I should be imployed in it; *And now blessed be the Name of God, who accounteth me worthy to be put upon this service for my Lord Christ: Ob, this is nothing to what Christ hath suffered for me!*

He parted with his Wife and Friends with great joy and chearfulness as he did use to do when going some Journey or about some service for the Lord; He told his Wife he had nothing to leave her but his Bible; but that he was assured that God would make up all her losses in due time, and desired that those that did love him, should manifest their love in being loving and tender to his dear Wife.

Some passages at the Dungeon dore as he came forth, The Sheriff commanding the Keeper to acquaint Mr. *Harrison* he must go to suffer; the Keeper came forth and returned answer, that he was ready when he pleased: Then the Sheriff commanded the Keeper to fetch him forth; so he came forth immediately, sooner than was expected; (running down the Stairs with a smiling Countenance) by reason of his sudden coming, the door (that he was to go up a pair of Stairs at) was not opened, which occasioned his stay in the Hall till the Keeper could be found; and there one Mrs. *M.* took him by the hand, and said, with a loud voice, *Blessed be the great God of Hosts, that hath enabled you and called you forth to bear your testimony, the God of all grace and peace be with you, and keep you faithful to the death, That you may receive a crown of Life.* With that one of the Officers pulled the woman away by the shoulder, saying, Away with this woman she stands prating

prating here. But the Maj. General replied, Be not offend-
ed with her, she speaks Scripture-language: So they thrust
her away from him, and would not permit any to speak more
to him in that place. Then he spake, saying, *I bless the
Lord that bath called me forth, and bath inabled me in the power
of his strength, to offer my life with satisfaction and chearfulness
in obedience to the will of God. I bless the Lord I am full of the
manifestation of his love in the Lord Jesus; It's a day of joy to
my soul. I say God bath enabled me, to whom all the powers of
the world are but as the drop of a bucket; and said he, I do
find so much of the joy of the Lord coming in, that he was car-
ried far above the fear of death being going to receive that glori-
ous and incorruptible crown which Christ bath prepared for him.*

Then he was carried into a Room where the common Pri-
soners were, and told them what a sad thing it was to be
condemned to die, and to want the love and favour of God:
But it's not so with me; for though I die, yet I know I shall
live with Christ to all eternity, and this is out of the exceed-
ing riches of the grace of God; for he it is that maketh the
difference; For as I am in my self, I am a base, vile, and
nothing-creature; but compleat in him who is the Head of
all Principalities and Powers. Poor men! I wish you all as
well as I do my own Soul. Oh that you did but know Christ!
his bowels earns towards the greatest of sinners; his blood is
sufficient to do away the deepest iniquity; he waiteth to be
gracious and is willing to receive all that come unto him: Oh
therefore labour to come to Christ; your time in this world
is short and uncertain; you are walking upon the brink of
eternity, and are ready to drop in every moment, if you die
without the fear of our God you will be miserable for ever
and ever; but if you come to know Christ to be yours, it
will be your joy and happiness world without end. He then
put his hands into his pocket and gave them some Money,
and wished them to take heed of sinning against the Lord.
And from thence was carried upon the Leads on the top of
Newgate, so that he could see the greatest part of the City,
he then said, *The earth is the Lords, and the fulness thereof, and
there is nothing hid from his eyes.* From thence he was carried
down two pair of Stairs, where he was tied about the back,
A a 3 breast,

breast, and shoulders; he took the rope in his hand and said, *Friends take notice that God gives me power to receive this with Thanksgiving* and he helped the Serjeant to put on the Rope. Then a friend came weeping to him to take her leave of him, he said, *hinder me not, for I am going about a work for my Master.* Then looking about him said, *Sirs, it's easie to follow God when he makes a hedge about us, and makes liberal provision for us: but it's hard for most to follow him in such a dispensation as this; and yet my Lord and Master is as sweet and glorious to me now as he was in the time of my greatest Prosperity.*

He also said, this I can say for my self, *That according to the light that God hath given me, I have served him and my Country with integrity and uprightness of heart, not willingly, nor wittingly wronging any: But this have I done with much infirmity and weakness.* One telling him, that he did not know how to understand the mind of God in such a dispensation as this. He said, *Wait upon the Lord; for you know not what the Lord is leading to, and what the end of the Lord will be.*

After this, addressing himself to a Gentleman, he said, *I dare not nor cannot be a pleaser of men: a friend answered, it appeared so by your declining Cromwell's Interest; which words he assented to, and further said, the manner of my speaking before the Court may seem strange to some; but my Design was not to approve my self before Men but God; and what I said, was according to my conscience. And as the Rope was tying on, he repeated Isaac's words to Abraham, Father, here is the wood, but where is the Sacrifice? and also said, if the Lord see good, he can provide another Sacrifice, he can deliver those that are appointed to die; but his will be done, Death is not terrible to me; yea, it is no more to me than a Rush, I have learn'd to die long ago. And was often heard to say, concerning the Lord's dispensation to him and his people, Shall not the Lord do with his own what it pleaseth him? And so parting with his Friend, went down stairs to the Sledge, and ask'd which way must I fit, for I am not acquainted with this; Good is the Lord in all his ways. Then he was carried away in the Sledge, having a sweet smiling Countenance, with his eyes and hands lifted up to Heaven, his Countenance never changing in all the way*

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way as he went to the place of Execution, but was mighty cheerful to the astonishment of many. He called several times in the way, and spoke aloud, *I go to suffer upon the account of the most glorious Cause that ever was in the world.* As he was going to suffer, one in a Derision called to him and said, *Where is your Good Old Cause?* He with a cheerful smile clapt his hand on his Brest, and said, *Here it is, and I am going to seal it with my blood* And when he came to the sight of the Gallows he was transported with Joy, and his Servant ask'd him how he did, he answered, never better in my life: his Servant told him, Sir, there is a Crown of glory ready prepared for you, O yes, said he, I see it, when he was taken off the Sledge, the Hangman desired him to forgive him, I do forgive thee said he with all my Heart as it is a sin against me; and told him he wish'd him all happiness. And further said, alas poor man thou dost it ignorantly; the Lord grant that this sin may not be laid to thy charge: and putting his hand into his Pocket, gave him all the money he had; and so parting with his Servant, hugging of him in his Arms, and went up the Ladder with an undaunted Countenance.

M. Gen. Harrison's Speech upon the Ladder.

Gentlemen,

I Did not expect to have spoken a word to you at this time, but seeing there is a Silence commanded, I will speak something of the work God had in hand in our days.

Many of you have been Witnesses of the Finger of God that hath been seen amongst us of late years in the deliverance of his people from their Oppressors, and in bringing to Judgment those that were guilty of the precious blood of the dear Servants of the Lord. And how God did witness thereto by many wonderful and evident Testimonies, as it were immediately from Heaven; insomuch that many of our Enemies, who were Persons of no mean Quality, were forc'd to confess, That God was with us, And if God did but stand neuter they should not value us; And therefore seeing the Finger of God hath been pleading this Cause, I shall not need to speak much to it: In which work I with others were engaged; for the which I do from my Soul bless the Name of God, who out of the exceeding

riches of his grace accounted me worthy to be instrumental in so glorious a work, and though I am wrongfully charged with murder and blood-shed, yet I must tell you I have kept a good conscience both towards God, and towards man; I never had malice against any man, neither did I act maliciously towards any person, but as I judged them to be Enemies to God and his People; And the Lord is my witness that I have done what I did out of the sincerity of my heart to the Lord. I bless God I have no Guilt upon my conscience, but the spirit of God beareth witness that my Actions are acceptable to the Lord through Jesus Christ; though I have been compassed about with manifold Infirmities, Failings and Imperfections in my holiest duties; but in this I have comfort and consolation, that I have peace with God, and do see all my sins wash'd away in the blood of my dear Saviour. And I do declare as before the Lord, that I would not be guilty wittingly, nor willingly of the blood of the meanest son, no not for ten thousand Worlds, much less of the blood of such as I am charged with.

I have again and again besought the Lord with Tears to make known his will and mind unto me concerning it, and to this day he hath rather confirmed me in the Justice of it, and therefore I leave it to him, and to him I commit my ways; but some that were eminent in the work, did wickedly turn aside themselves, and to set up their Nests on high which caused great dishonour to the name of God and the profession they had made. And the Lord knows I could have suffered more than this rather than have fallen in with them in that iniquity, though I was offered what I would if I would have joined with them, my Aim in all my proceedings was the glory of God, and the good of his People, and the welfare of the whole Commonwealth.

The People observing him to tremble in his Hands and Legs, he taking notice of it said,

Gentlemen, By reason of some scoffing that I do hear, I judge that some do think I am afraid to die by the shaking I have in my hands and knees, I tell you no, but it is by reason of much blood I have lost in the Wars, and many wounds I have received in my body, which caused this shaking and weakness in my Nerves, I have had it this twelve years, I speak this to the praise and glory of God; he hath carried me above the fear of death; and I value not my life because I go to my Father and am assured I shall take it up again.

Gentle-

Gentlemen, Take notice that for being instrumental in that cause and interest of the son of God which hath been pleaded amongst us, and which God hath witnessed to by Appeals and Wonderful Victories; I am brought to this place to suffer death this day, and if I had ten thousand lives, I could freely and chearfully lay them down all to witness to this matter.

Oh what am I poor worm that I should be accounted worthy to suffer any thing for the sake of my Lord and Saviour Jesus Christ, I have gone joyfully and willingly many a time to lay down my life upon the account of Christ, but never with so much joy and freedom as at this time; I do not lay down my life by constraint but willingly, for if I had been minded to have run away, I might have had many opportunities, but being so clear in the thing I durst not turn my back nor step a foot out of the way by reason I had been engaged in the service of so glorious and great a God; however men presume to call it by hard Names, Yet I believe ere it be long the Lord will make it known from Heaven that there was more of God in it then men are now aware of: All the Gods of the Nations are but Idols, they have Eyes but see not, and Mouths but speak not, and cannot save those that trust in them. But my God is the King of Kings and Lord of Lords, before whom all you here, and all Nations are but as a drop of a Bucket. And he will never leave those that truly trust in him, unto whose Glory I shall surely go, and shall sit on the right hand of Christ in Heaven, it may be to Judge those that have Unjustly Judged me, *Matth. 25. 33, 34. 1 Cor. 6. 2.*

The Sheriff minding him of the shortness of time, if he had any thing to say to the people he might.

He said, I do desire as from my own soul, that they and every one may fear the Lord, that they may consider their latter end, and so it may be well with them; and even for the worst of those that have been most malicious against me, from my soul I would forgive them all so far as any thing concerns me, and so far as it concerns the cause and glory of God I leave it for him to plead; and as for the cause of God I am willing to justify it by my sufferings according to the good-pleasure of his will.

I have been this morning, before I came hither, so hurried up and down Stairs (the meaning whereof I knew not,) that my spirits are almost spent; therefore you may not expect much from me.

Oh

Oh the greatness of the love of God to such a poor, vile, and nothing-creature as I am! what am I that Jesus Christ should shed his heart's Blood for me that I might be happy to all Eternity, that I might be made a son of God, and an heir of Heaven! Oh, that Christ should undergo so great sufferings and reproaches for me, and should not I be willing to lay down my life and suffer reproaches for him that hath so loved me! Blessed be the Name of God that I have a life to lose upon so glorious, and so honourable an account: then praying to himself, with tears; and having ended, the Hang-man pull'd down his Cap; but he thrust it up again, saying, I have one word more to the Lord's people that desire to serve him with an upright heart: Let them not think hardly of any of the good ways of God for all this; for I have been near this seven years a suffering person, and have found the way of God to be a perfect way, his Word a tried Word, a Buckler to them that trust in him, and will make known his glorious Arm in the sight of all Nations. And though we may suffer hard things, yet he hath a gracious end, and will make a good end for his own glory and the good of his people; therefore be chearful in the Lord your God, hold fast that which you have, and be not afraid of suffering; for God will make hard and bitter things sweet and easie to all those that trust in him: keep close to the good Confession you have made of Jesus Christ, and look to the recompence of reward; be not discouraged by reason of the cloud that now is upon you; for the Sun will shine, and God will give a testimony unto what he hath been a doing in a short time.

And now I desire to commit my Concernments into the hands of my Lord and Saviour Jesus Christ, he that hath delivered himself for the chief of sinners; he that came into the world, was made flesh, and was crucified, that hath loved me, and washed me from my sins in his own blood, and is risen again, sitting at the right Hand of God making intercession for me.

And as for me, Oh, who am I? poor, base, vile worm, that God should deal thus by me; for this will make me come the sooner into his glory, and to inherit the Kingdom, and that Crown prepared for me! Oh, I have served a good Lord and Master which hath helped me from my beginning to this day, and hath carried me through many difficulties, trials, straits, and temptations, and hath always been a very present help in time of trouble; he hath covered my head many times in the day of Battle: By God I have leaped o-
ver

ver a Wall, by God I have run'd through a Troop, and by my God I will go through this death, and he will make it easie to me. Now into thy Hands, O Lord Jesus, I commit my Spirit.

Some Occasional Speeches, and Memorable Passages before the Execution of Mr. John Carew.

WHen the first tidings of the Adversaries intentions to seize and apprehend him (being then in *Cornwall*) came to his knowledge, he uttered these words or to this effect. That he had committed both his life and estate to the Lord; to save or destroy, as he thought meet; and therefore he would not by any means go out of the way, though provoked thereunto by several Friends.

After he was seized upon in the Country, and coming up to *London*, he had a gracious presence of the Lord with him: sweetly supporting him in the sense of the love of Christ to his soul; and being perswaded, that the cause of his suffering from man was such, as he had no cause to be ashamed of; otherwise, the many reproaches and hard usage in the way to *London* had been sufficient to have troubled his spirit. In most Towns where he came, the generality of the people Reviling him, with such words as these: hang him Rogue, pistol him, said others, hang him up said some (at *Salisbury*) at the next sign-post without any further trouble. Look, said others, how he doth not alter his Countenance; but we believe he will tremble when he comes to the Ladder. This is the Rogue will have no King but Jesus. Indeed the rage of the people all the way was such, that had he not been indued with strength from on High, he could not have undergone the wicked and barbarous Deportment and Carriage of the Giddy multitude which he was subjected to.

After he came to *London*, and had many opportunities of Escape, if he had thought it meet (before he was sent to the *Tower*) yet he would not, knowing how much the Name and Glory of God was concerned in his faithful witness to the cause of Christ for which he was in Bonds. And the truth is, his joy in the Lord was such that when many came drooping in

in spirit to him (by reason of the Gloominess of this present dispensation) they went away refreshed and comforted by those many Gracious words that came out of his mouth.

When word was brought him that Maj. General *Harrison* was dead, he said well, my turn will be next, and as we have gone along in our Lives, so must we be one in our Death. The Lord God grant, that I may have strength from himself to follow courageously to the last breath; and that I may much honour and glorifie God, whom I have made profession of; I can do nothing of my self, but my strength is in the Lord of Hosts, who hath helped me from my beginning to this day, and will help me to the end. The night before he suffered, some of his Natural Relations came to take their leave of him, and when they were parting, they shed some tears, but when he perceived it said, O my friends, if you did know and feel what joy I have, and what a Glorious Crown I shall receive from the hand of Christ (for this work) you would not Mourn, but Rejoyce, that I am counted worthy to be a witness to this Cause, and said further, *The Lord preserve you all from the portion of this Generation*; for assuredly, There is great wrath from the Lord that will reach them to their destruction. When Mr. *L.* came to take his leave of him, he asked this Question (*viz.*) how it was with him? he answered, very well I bless my God; as to my interest in him I have not the least doubt, but do know assuredly, that when my soul shall be separated from this body, *I shall be taken into his presence where is fulness of joy, &c.* And by Jesus Christ be presented to my Father, without spot and blame in his own compleat and perfect righteousness which is free, and not for any of mine own works: for I am a poor sinful and wretched creature, and compassed about with many infirmities. And when it was asked him, if he had any thing of conviction upon him as to what he was to suffer for? he answered no, not in the least, for said he, Though man have Condemned, yet the Lord hath and doth justifie; he added, the Lord had justified it in the Field once already in this Nation (but that is now accounted as a thing of nought) but he will again do it with a Witness, and prayed that the Lord would deliver him (*viz.*) Mr. *L.* from that Judgment that was at hand by which

which he would do it. To this effect spake he also to many that did quere with him about this matter — being told that his Nephew and some others were doing their utmost for his Reprieve, he reply'd, that there is nothing to be done: For the Sheriff hath brought me word (just now) that I must Die to morrow, and that there was some that desired I might not be Quartered, but it would not be granted. But Death is nothing to me, let them Quarter my Body never so much, God will bring all those pieces together again. It was asked him if he had assurance of the love of God? he said, yea, yea, he had fought a good Fight and had overcome, and he was ready to suffer the will of God. One asked him if he thought there would be a Resurrection of the Cause? he answered, he Died in the Faith of that, as much as he did that his body should rise again, and if he did not believe that, he should not be so chearful at the Sentence of Death; he said also he had not the least regret or disturbance on his spirit about that for which he was to die, for what he did was of the Lord, and if it were to be done again he would do it. And the way they took to suppress and destroy those that did not think the King's person Sacred, their blood will make many hundreds more perswaded of the truth of it: it was grievous to him, to hear how at his Trial they blasphemed God and his people; but he was resolv'd he would own the Lord among them, which they could not bear, Therefore they were so violent against him: he said the Gospel was going from *London*, and Popery and Superstition, &c. was coming in, and it would be a rare thing to find a professor of religion in *London* shortly; he encouraged those about him, to keep close to the Lord in this evil day. Oh! said he, who would have thought some years since, that Popery and Formality should have been let in again to these Nations? he said, they were so Barbarous, they would not allow him some small time to take a little Rest before he was to suffer; which was all he needed or desired of them; For he was much tired with speaking to company which came continually in: He desired to be remembered to some Friends, and tell them, *That this was the last Beast, and his Rage was great, because his time was short.* Some more Expressions he uttered to this effect. But in all his words and manner

manner of speaking, he manifested the highest Christian Magnanimity and holy Greatness of mind, and such a spirit of joy and glory rested upon him, even to astonishment. It was asked if he apprehended his confidence would continue to the death? he said, he was not strong in his own strength, but in the Lord's strength, which he still relied upon. And he said to one by him, will you not see how God will carry me through next day? and desired prayers for him. One asked him, what he thought of this severe hand of God? He said, that which was hid secret in the bosom of the Father, should be manifested in due time: Oh! said he, it grieves me to think how Popery is coming upon us like a flood in this poor Nation, and the great judgment that will follow. But the Lord will be a hiding place for his poor people until the indignation be overpast: let not our enemies think to break the Spirit by putting us to death; for I am confident, That God will give his Spirit seven-fold unto those that are left; but the enemy, the Lord hath set their feet in slippery places, so that when they come to their measure, they must be cast down: Therefore 'tis the duty of the Lord's people to wait patiently *and he that shall come, will come, and will not tarry.* 'Tis a trying time, and none but those that are endued with power from on High, will be able to hold out. One asking him, where his Chain was? he said, here it is; and though I have worn it so long, that it hath entred into my flesh, yet it was as *Joseph's*, it had not entred into his soul. He was highly raised up in admiring the grace of God, That he should be accounted worthy to wear a Chain for Christ, saying, They have been blessed Chains to me; adding, that the Lord had crowned him beyond many of his Brethren, being counted worthy to seal Gods work with his blood; admiring that God should accept of such a crasie body: much of his strength being already spent; yet, That God should so honour it in the end; he much admired the depths of the love of God to such an unworthy worm. The Lord will bring my blood (saith he) to cry with the rest of the Martyrs, *How long, O Lord, Holy and True, &c.* As for death, or the fears of it, I am got above them, in and through the beholding of the glory of our God,

into

into which I am entring : which glory shall be shortly for the reviving of the spirits of his Saints, and destroying his Enemies. A friend speaking to him (the night before he died) of this Dispensation he said, he was perswaded, That their blood would be of much advantage to the *Cause* in Foreign Nations. Two Friends that came to visit him, being (as he thought) under some trouble of spirit, he directed his speech to them, as follows; be not troubled, there is nothing stands between me and the Father; for I go with all clearness and freedom, and, I know, That Jesus Christ is my compleat Righteousness; and this is my crown of Rejoycing, *That I die not in the Lord only, but for the Lord*; And think not that this blessed *Cause* shall be lost; for it shall reach to the end of the Earth. Think not your prayers lost; for your prayers and tears with our blood, shall come down shortly upon *Babylon*, although they think to heal her, yet they shall give her a greater blow than ever we could have given her in our persons. Those who have been pleading for sufferings, who so ready to run away from it? While the Lord hath given us a little of the spirit of Rejoycing, that hath made us willing to be giving up our selves unto him. And, although the Enemy think to Conquer us, they shall never do it; for we are got above them in the Spirit of the Kingdom; we trample upon them, and they are under our feet; and this blood that now is shed, shall warm the blood that hath been shed before; and shall come down and do notable Execution upon the Enemy. The Lord hath (in much wisdom) hid this death from us, and hath allured into it; but he hath fitted us for it, and be not troubled that he hath taken away two or three drops of the spirit; for he will in the room thereof pour it out upon you.

The day he suffered and the hour being come, The Rope being tyed about him, he rejoyced exceedingly, saying, Oh! what am I, that I should be bound for the Cause and Interest of the Son of God? And when he was coming down *Newgrate*-stairs to go into the Sledge, in a very smiling, cheerful manner, his countenance shining with great glory, uttered words to this effect; My Lord Jesus, for the joy that was set before him, endured the Cross, and despised the shame and

and is now set down on the right hand of God ; whose steps I desire to follow. It was also observ'd that the cheerfulness of his countenance all the way as he went to the Gibbet, remained, to the encouragement of the Faithful, and admiration of enemies, uttering by the way many chearful expressions setting forth his joy in the Lord.

When he was brought to the Gibbet, before he went up the Ladder (his hands being bound) he exhorted several friends standing by, to be faithful unto death ; and not to be ashamed of the cause for which they suffered, and they should receive a Crown of Life. And further said to a friend that stood by, That he hoped the Truths of the Kingdom which he had preached up and down would not be the less esteemed, for that he came now to seal it with his blood.

Mr. Carew's Speech upon the Ladder.

TRuly, it is not words, nor that which I have to speak in mine own spirit, will glorifie God, or give any advantage to your souls, or unto me : but it is, if I may speak a few words in the Spirit of the Lord, and in the power of his might, and from an unfeigned love unto Jesus Christ : that would indeed give me an open entrance, and make my passage very sweet ; and a blessing may be behind, even upon you. The first thing (indeed) that hath been very weighty (and I desire to leave it upon all, upon Saints as well as upon those that are not acquainted with Jesus Christ) that Eternity, Immortality, and eternal Life, it is a wonderful thing ; the thoughts and apprehensions of it are able to swallow up a poor soul : we little think what it is ; he that knows most of God, and most of Christ, and hath the greatest measure of the anointing, he little, little knows what it is to appear before the holy, the most glorious, the most righteous God of Heaven and Earth : to stand before his judgement seat, before Jesus Christ that is at his right hand : and where all the holy Angels are so ashamed (because of the glory of God) that they fall down and cover their faces, and cry Holy, Holy, Lord God Almighty, which art, and wast, and art to come. And therefore if such glorious creatures, if such excellent Spirits as these Seraphins and Cherubins be, if they do fall down before the glory
and

and Majesty of this most excellent and wonderful God, how should dust and ashes do? and how should they fear and tremble to appear before him? And therefore, I say, think of this, and of the righteousness of God, as well as of his glory and Majesty, and of his Justice; that when for one sin he threw down the Angels (those glorious Spirits) into hell, and he would take no ransom or redemption for them; and though he hath mercy on the sons of men (according to his own election and purpose, and according to that that he hath purchased for himself in Christ Jesus before the foundation of the World was laid) yet in time he made his Son a Sacrifice before Men and Angels to bring his chosen ones to glory. That he should take pleasure to send his own Son out of his bosom, who was the delight of his soul, and bruise him for our sins; yet it pleased the Father to bruise him. The most holy and righteous God, that had but one Son, one only begotten Son (that was the delight of his soul) and should take pleasure to bruise him, that we might be healed, and laid stripes upon him that we might be healed. Oh! the height and depth, oh! the length and breadth of the love of God in Christ Jesus unto poor souls. Oh! this is that the Angels do desire to stoop down and look into, and to know more of this great mystery of the love of God in Christ: and that God should take upon him the nature of Man, and put him into that glorious union with his own Son; and that he should leave the Angels, though Christ was made a little lower than they for suffering death for us: yet now, because the nature of Man is united to the Godhead by virtue of that marriage and union, we become the sons of God, and heirs of glory. Those that are adopted by Jesus Christ are brought near to the Throne of glory, are in a high and glorious communion and fellowship with the Father and Spirit, owned of all the holy Angels. And therefore they do stand without the Throne (as in several places of the Revelations) and round about the Elders, and round about those that were given to the Lamb (as in the fifth of the Revelations, and many other Scriptures) they stand without, but there is another company within which is the 24 Elders, and four living Creatures, they fall down and worship God, they are nearer than the Angels; Oh! who hath credited, who hath believed this report, and to whom is the arm of the Lord revealed? Oh! how many professors are there in this day, in this Nation, that call upon the name of Christ, and

that say they shall be saved by Christ, and do live and trust most in their own works and righteousness; and never come to the knowledge and understanding of this great mystery of the love of God in Christ? who never received those teachings from the Anointing, and according to the new Covenant, where it is promised that they shall be all taught of God, all the children of God shall be taught of him, and there is no one can teach these but the Father, none can draw them to the Son but the Father; and no man can come to the Father but through the Son: and this great mystery is both by the light and operation of the holy Spirit, who makes the new creature in the soul: O that God would pour out of his holy Spirit; that God would pour out the Spirit of the new Covenant, and the Spirit of the Gospel, and the Spirit that can declare the mystery of God's Word in the Spirit, and that he hath made manifest through Jesus Christ. Ob! there is much talking and speaking in the name of Christ, and how many men spend little time in getting evidences in the power and demonstration of the Spirit, and come to apprehend God in Christ, that speak of him? Ob! there are few of these the Lord knows. O that the anointing may be poured out more now, according to this faith, in the way of this grace, and in this love of God, even in the electing love of the Father; and in the redeeming blood of Jesus Christ, according to the purchased possession that he hath obtained through his own righteousness, wherein God hath been just also, in justifying the ungodly; and among them, such a poor simple piece of dust and ashes as I have been, and have to this day little glorified my father; and yet I can call him father, through some measure of his Spirit, and father according to the Spirit of adoption too; and can say the Lord Jesus hath given himself for me, and I take the Lord Jesus Christ as the great gift of the Father, desiring to bear witness of that love, and of that wonderful grace and glory, that he hath made me partaker of in and through him. Ob! blessed be the God and Father of our Lord and Saviour Jesus Christ, who hath called me to this hope, and who hath made me partaker of this glory, that the Saints are enlightened in. And now I long to see the face of this Father, and of his Son, though I have such a number of sins in me; and though I have an interest in him, and can call him Father at any time without doubt, and in full assurance of faith in the holy Spirit, yet if Jesus Christ were not there, to present me faultless before the presence of God,

I should be afraid to appear before him ; but he is able to do it, and therefore saith the Apostle, Now unto him that is able to save you, and to present you faultless before the presence of his glory with exceeding joy, &c. I am a poor sinful piece, full of iniquity, laden with many burdens, that have a body of death that I carry about me, and I am now about to lay it down, and my soul shall enter into eternal life, and be made perfect in a moment, through the mighty power of God that hath wrought that glorious work of raising Christ from the dead. Oh ! all my strength, and all my joy, and all my life is in Christ, and in him alone ; and I have a righteousness already of his working, according to his own grace, and according to his own mighty power, and according to his own mercy, that he hath been pleased to work in me ; and so hath been pleased to keep me in a very wicked and in a very evil day, by the power of his grace. And I desire to glorify my father, and many years have I been in that work, that hath been of late in this Nation ; few and evil have been the days of my Pilgrimage, but I have desired to serve the Lord with faithfulness, and in the integrity of my soul, without prejudice against any Creature ; and it hath been the desire of my Soul to approve my self faithful towards God, and towards Man : and what I have done I have done it in obedience to the Lord ; that I had in my eye, and in my heart. There are many things laid upon many of those that profess the Kingdom and glorious appearance of Jesus Christ, as if they were enemies to Magistracy and Ministry ; and, as if so be we were for the destruction of the Laws and Properties of Mankind, therefore shall I speak a few words unto that. And if indeed we were such, we were fit to be turned out of the World ; as some now think they should do God good service in sending such poor creatures quickly from hence. There is no such thing ; I desire to bear witness to the true Magistracy, that Magistracy that is in the Word of the Lord. And that true Ministry, which Ministry is a Ministry from the anointing ; that doth bear witness to the Lord Jesus, and hath his holy Spirit. That testimony I desire to bear ; and that testimony I desire to stand faithful in, with integrity to the Lord Jesus, as King of Saints, and King of Nations. And therefore it is, I say, to have a Magistracy as at the first, and Counsellors as at the beginning, Men fearing God and hating covetousness. And that Ministry as doth preach the everlasting Gospel.

Here Mr. Sheriff interrupted him, saying, *'Tis desired that you spend the rest of your time in preparing your self.* Another said, *You spend your selfe, Sir, in this Discourse.* Another said, *It rains.* Then Mr. Carew said, *I will pray.*

Mr. Carew, his Prayer.

O Most holy, and most glorious and blessed God, the God and Father of our Lord Jesus Christ, the Father of all Glory; The God of the Spirits of all Flesh; unto thee, unto thee doth my Soul desire to come through the new and living way, even through Christ my Righteousness: And in him and through him to be offered up by the Eternal Spirit, a living and acceptable Sacrifice, in which thy soul delighteth. O Lord, thou knowest my frame, and thou knowest my life, and what a passage this is; and what a wonderful thing it is, to enter into Glory. And what a wonderful thing it is to stand before thee, and to stand in thy presence. O Father, Father, let my soul be filled with thy joy, and with peace in believing; O let my heart be in heaven while my body is here; and O let me be joyned unto the Lord, through thine own spirit before this separation be — O Lord, thou only art able to take hold of my Heart and Spirit; poor Creatures may speak words to thee, but oh! it is thine own power, and it is thine own spirit, that must take hold of the heart; it is thine own spirit that must carry through all, and it hath been thy spirit (blessed be thy Name) that hath carried me through many Tryals, and many Temptations, and many Difficulties, that thy poor Worm hath met with in this Pilgrimage for many Years. O blessed be thy Name for all the Goodness, and for all thy Grace, and for all thy presence that hath been with thy poor Creature far and near. Oh! blessed be thy Name that thou hast kept me in any measure faithful unto thee, and made me willing to lay down my life for thy righteous Work and Cause. Oh blessed be thy Name, that the Lord and Christ (that is at thy right hand) hath bought me with his own most precious blood. He hath Redeemed me indeed. Therefore it is but my reasonable service that I should be offered

ferred up a sacrifice to him, my joy is in him, and my confidence is in him, that I shall be presented by him to my heavenly father. O father, when thy servant is to be presented before thee, let him know what it is to find mercy. Let him know what it is to have Jesus Christ an Advocate; and what it is to be presented before thee by such a Redeemer. O that Jesus Christ might bid me welcome into thy presence; and may say to my soul, *Well done good and faithful servant, enter thou into the joy of thy Lord.* O blessed Father, it is not that I do expect any thing from thee upon any account below the account of the Lord Jesus: and wherein soever thou hast been glorified by thy poor servant, it hath been by thine own power and thine own working. O nothing unto thy poor creature is due, but unto thy holy Name be praise and glory. O holy Father behold thy work in the Kingdoms, and behold the cause and interest of all thy people. O do thou revive it in thine own appointed time; O do thou strengthen the hearts of thy poor Saints: O scatter all clouds, speak comfortably to their souls, that they may be able to stand under all storms, faithful unto the death, and receive a Crown of life and glory. O bless thy poor Saints in the City, and bless thy Saints in the Country: and bless thy Saints in the West: O bless thy Sons and thy Daughters; O bless all the meetings of thy People, let the blessing of the Lord appear unto them, let the glory of the Lord make haste; let the glory of the Lord be upon these Nations. O remember thy promise to thy ancient people the Jews; O let thy people be taught of thee, O let these dry bones live, O let the Spirit of life breath upon them. O dear Father let the fullness of the Jews and of the Gentiles be brought in. Let multitudes be gathered out of every Kindred, and Tongue, and Nation, unto the Kingdom of Jesus Christ. O Father, Father, advance thy Son, set him as King upon the mountain of thy holiness; give him all glory, and power and dominion over the whole Heavens, that thou hast promised according to thy word and covenant to give unto him: that he may reign in thine own word and law, through his own Spirit for ever and ever. Lord, Lord, I desire thou wouldst gather up my soul, O gather up my soul O Lord, make this passage sweet, O make it comfortable.

Lord Jesus thou hast taken away the sting of death, and born the burden of all this shame, and of all this reproach. And thou hast given thy poor servant something of thy presence, through the riches of thy grace this day. O Lord, now receive, O open thine everlasting arms : O now let me enjoy thy presence. O God, which I have desired to behold and see, and to behold thy face in Jesus Christ, O, and now let me enjoy what thou hast prepared for me : and fill me with the joys that are at thy right hand, and those pleasures that are in thy presence for ever more. O thou lamb of God lead me to the everlasting Fountain, that living fountain that is able to supply all our wants. O Lord bless, bless, thy poor People ; O comfort them in this day. Pour out sevenfold of thy Spirit for what thou dost take away in any of thy servants, for thy holy Names sake. O let the cause and kingdom of Christ be dear and precious in thy sight, and live always. Lord little do these (poor creatures) know, or these Nations know, what a controversie thou hast with them. O that thou wouldest be pleased graciously to spare this people, spare thy people however ; and let them that love Zion, and favour thy righteous cause, be glad for ever and ever. O now Father be near to me, do thou receive my Spirit, take me into thine own glory, take me into thine own glory ; let me know it is my portion, let me know there is a Crown in the hand of Christ prepared for my soul. O blessed Lord, thou hast honoured thy poor creature, and brought him hitherto, O reward all the labours of love in any to him, in bonds or death ; and give them a double reward into their own bosoms. Reward it so to them and theirs. Blessed be thy Name that thou hast brought thy poor one hither to suffer in thy cause. And O Lord, let thy Spirit be powred forth upon the Nations, until the whole Earth be filled with the knowledge of thy Glory. And that Christ Jesus may have all the Honour, and Praise, and Glory, and Dominion for Ever, and Ever. Amen.

I am so exceeding dry that my Tongue is ready to stick to my Mouth. But I would fain speak a little more. Oh blessed be God ! Oh ! how many are the Refreshments I have had from the presence of my God and Father, sweet, and secret Communion betwixt him and

and my soul to day. And for that my soul hath seen of his Riches and Kindness. O that I might be more like Christ ! for I have been very unlike to Jesus Christ, very unlike to my Father. But I shall leave all that is unlike Christ behind ; And all his own Workmanship he will purifie and perfect through this passage into Glory. O my dear Father, receive my soul, Oh ! make this passage sweet, for now I am coming to thee ; Lord Help me, Lord Spirit me, fill me with thy Spirit, let me be ever with thee, let me know what it is to have thee at my Right Hand, that I may not be moved ; that in my soul going out of the Flesh, I may be let into the presence of God, and into the Arm of Jesus Christ. Oh ! That my soul may be breathed forth into the Arms of God, into the Bosom of Jesus Christ, thro' the Anointing of the Spirit.

A Friend that stood by, said, it is expected you should speak something to the matter of your suffering ; The under Sheriff said, 'Tis not to be suffered, What are you ? that you put on Men to speak ; What are you, Sir ?

Mr. Carew said, Farewel my dear Friends, Farewell ; the Lord keep you faithful. The Friend said, We part with you, with much Joy in our Souls.

Mr. Carew said to the Executioner, Stay a while, I will speak one word, and then said very solemnly with a loud voice,

Lord Jesus receive my Soul, Lord Jesus into thy Arms I commend my Spirit.

And so fell a-sleep.

Some occasional Speeches, and memorable Passages of Mr. Justice Cooke, during his Imprisonment in the Tower and Newgate. With his Speeches and Prayer upon the Ladder.

HIS Wife coming to visit him in the Tower of London, but not having Admittance to him, he saw her forth of his Window, and said go home to thy Friends my Dear Lamb, I am well, Blessed be God they cannot keep the Comforter from me.

His Wife asking the Gentleman Jaylor to see him (another time) He answered, she might see him suddenly in *Newgate*, her Husband hearing of this, said, *If the way to the new Jerusalem be thorough Newgate, blessed be God for Newgate, the King of Glory will set open his Everlasting Gates to receive me shortly, and then I shall for ever be with the Lord.*

A Note sent by him from the *Tower*.

My D. L. Chear up, Heaven will make amends for all, blessed be God I am full of spiritual Joy, and do trust God to make what bargain for me he pleaseth, for he knoweth the appointed time of my Composition and Dissolution, *let us look to Jesus, Heb. 12.*

After Mr. Cooke was brought to *Newgate*, discoursing with some Friends there, he said, I am now going to my Tryal, wherein the Lord strengthen me. If I be attainted yet my Estate in *Ireland* is not thereby forfeited without an Act of Parliament to that purpose, and indeed it is much set upon my heart, that if my small Estate be taken away from my poor Wife and Child, it will prove as poyson to those that enjoy it, and consumptive to the rest of their great Estates, for I bless God I never acted Maliciously, or Coverously, but in a Spirit of Simplicity and Integrity, however the good will of the Lord be done.

I commit and commend my Dear, Loving and Faithful Wife and Child to their blessed Husband and Father, with three Scriptures especially for their portion. *The Widows cruse and barrel of meal, 1 King. 17. Isa, 54. ver. 5. to 10. Jer. 49. 11. Earnestly desiring that my Child may be Religiously Educated in the fear of the Lord.* Thus if God hath appointed it, I shall go from the Cross to the Crown.

Speaking to some in prison, for the clearing of himself from false Aspersions, said, Whereas some say I have done them wrong, they do much wrong me in so saying, I have relieved many so far as by law I could, knowing that the worst of Men ought to have Justice; I bless God I durst not wrong any Man, for I know that I shall meet them at the last day before the Bar of Christ's Judgment, where I can with boldness look all Men in the Face as to matter of Justice, for which I have great cause to bless the Lord, *Holy be his Name.*

Some

Some in the prison speaking of the Differences in Religion, Mr. Peters said, Pray talk not of Controversies now, we have but a little time to live, and cannot spend it in such Discourses.

Whereupon,

Mr. Cooke said, *Blessed be God, brother Peters, we are going to Heaven, where the Saints are all of one mind, which my soul hath long desired to see, it rejoiceth my heart to think what a perfect happiness I shall have there; the best condition here is but mixed, but in Heaven there is no sorrow nor trouble, neither have I one dram of trouble upon my spirit at this time, blessed be God he hath wiped away all tears, and I could with Paul and Silas sing in prison for Joy, Blessed be the Comforter.*

Discoursing after he came into the Dungeon, he said, when a poor Creature comes about so solemn a Work as to die, what a blessed thing is it to have a Helper, and what can help but the holy Spirit; blessed be the Comforter for I am full of spiritual Consolation; if one of you was to have a Thousand pounds a Year after the death of an Old Man Consumptive, that would not live three days, how would you rejoice; this is my Condition through Grace, I must in a little time put off the Old Man, and enter into the possession of Heavenly Glory. Let no good People fear a Prison, for it is the only place, wanting other Books to study the Book of self.

A Friend going about to comfort Mr. Cooke from the consideration of the brevity and uncertainty of Man's Life, using some expressions of love, &c.

Mr. Cooke replies, What dost thou speak thus for? if I were sick of a Fever this might be a suitable Discourse, but we must talk at a higher rate than this now; were I to chuse, I would rather chuse this death than to die of a Fever, for there is much pains and sometimes distractions, but here a Man is well when he goes upon the Ladder and out of all pains in a quarter of an hour; And speaking to a Friend, said, I am now going to Heaven, and shall leave you in the Storm.

Mr.

Mr. Cooke to some Friends in Prison.

Friends, I beseech you rejoyce with me, O let us bless the Lord that he counts us worthy to be sacrifices to follow his steps, was not the Captain of our Salvation made perfect through Sufferings, and shall not I, Oh I long to be at home, out of the body with the Lord, though I go through a sea of Blood to him; truly I think every Hour Ten, little do my Enemies think what a Friendly part they do me, to hasten me to my Father's Kingdom, to my Crown and Glory; I had rather go to my Dear Jesus with my Chain and Cross, than to sit down with an Earthly King on his Throne and wear a Crown of Gold.

Some disaffected to him being present said, the Jesuits suffered cheerfully and confidently.

Mr. Cooke replies, I bless God my Justification is not built upon the Merits of Works, but alone upon Grace in the blood of Christ.

The said Person compared him and his fellow Prisoners to Corah, Dathan and Abiram.

Well friends, said he, it matters not who condemns, when God justifies.

Mr. Cooke (said they) do not justify your self, but confess your sins, your hainous crime against the Lord and his Anointed, and repent.

Mr. Cooke replies, I must needs tell you, that if Repentance was now to do, I was in a sad condition, but I bless my God he hath inabled me to confess my sin, and hath sealed my pardon in the blood of his dear Son, and given such peace as none can give or take away. I have no Guilt nor Trouble upon my Spirit touching what is done, but such sweet peace in God as I cannot express, and I shall leave all with God who judgeth righteously, who will decide all things.

Mr. Cooke to Mr. Peters in the Dungeon said,

Brother Peters we shall be in Heaven to morrow in Bliss and Glory, what a blessed thing is that, my very heart leaps within

within me for joy, I am now just as I was in the * Storm, almost in sight of Heaven, read me *Isa.* 43. 9, 10. *Isa.* 61. 10, 11. *Hos.* 13. 14.

Then looking upon his bed, said, that shall be my last Pillow, I will lay me down and sleep awhile, and he slept about an hour and half, and then awoke, saying, now farewell sleep, no more sleep in this World, and farewell Darkness and Night, I am going where there shall be no Night there, neither need of a Candle, nor of the Sun, for the Lord will give us light, *yea the Lord will be our Everlasting light and our God will be our Glory.*

And welcome every thing that gives notice the hour is at hand, welcome the Cock that crows, welcome sweet Death my good Friend that will bring me so near Eternity. O blessed be God, blessed be his Name, Oh this Christ is a blessed Christ, he answereth all thing, and within few hours we shall be crowned with Glory and Victory; blessed be our Lord Jesus that hath given us the Victory over Sin and Death. Welcome Mr. *Loman* my keeper, welcome Angels, that will within a few hours take the Office, and guard me into Eternity.

At midnight he prayed very fervently, and the common Prisoners heard him, and seemed very sorrowful by their Expressions, saying, Sir, the Lord be with you, O that our souls might go where your soul goes.

About the Morning, speaking to Mrs. *Cooke*, said, Lamb do not dishonour my last Wedding day by any trouble for me; For if all my Judges did but know, what Glory I shall be in before Twelve of the Clock they would desire to be with me.

And let the Executioner make what haste he can I shall be before hand with him, for before he can say, here is the Head of a Traytor, I shall be in Heaven. Come Lord Jesus come quickly, my soul longeth for thee, and I wait to hear thy voice, saying, come up hither, and immediately I shall be in the Spirit; and then shall I for ever be with the Lord. And at midnight there was a cry heard, the Bridegroom cometh, and they that were ready went in unto the Marriage; *This day I shall enter into the joy of my Lord.*

* See his Relation of his Passage by Sea to Ireland, and his Dream.

Come, Brother *Peters*, let us knock at Heaven Gates this morning, God will open the doors of Eternity to us before Twelve of the Clock, and let us into that innumerable company of Saints and Angels *and to the souls of just men made perfect*, and then we shall never part more, but be with the Lord for ever, and ever, singing Praises, singing Praises to our Lord and everlasting King to all Eternity; he said further, O what a good master have I served, that stands by me now, and supports me, with his everlasting Arm he bears me up; (then said) *come away my beloved make hast, and be thou like unto a young Roe or a young Hart upon the Mountains of Spices*, Behold I come Lord Jesus, I come full sail to thee, I come upon the wing of Faith, Lord Jesus receive me; and going to lie down upon his bed, he said, it is no more to go to die to morrow than it is to go to sleep to night. I bless the Lord I am free from trouble, and my poor heart is as full of spiritual Comfort as ever it can hold, *And this joy can no man take from me.*

The doors of the prison being opened in the morning, he spent that little time he had left in prayer and heavenly discourse with Friends that came to visit him, preparing himself, for his suffering, with such a cheerfulness, as was an Astonishment to the Spectators.

Then speaking to his Wife, said, Farewel my dear Lamb, I am now going to the Souls under the Altar, that cry, how long, O Lord, holy and true; dost thou not Judge and Avenge our blood on them that dwell on Earth, and when I am gone my blood will cry and do them more hurt than if I had lived. But I am now going to Eternity, blessed be God, be not troubled for me, but rejoyce, because I go to my Father and your Father, to my God and your God. And after some time spent in prayer, he desired his Wife not to withhold him by an unwillingness to part with him now when God called for him, to be offered up as a Sacrifice for his Name and Cause.

After a little pause she freely gave him up to the Lord; to which he replied, Now all the work is done, and said, I resign thee up to Jesus Christ, to be thy Husband, to whom also I am going to be married in glory this day.

His

His Wife shedding tears, he said, Why weepest thou? let them weep who part and shall never meet again; but I am confident we shall have a glorious meeting in Heaven; here our comforts have been mixt with chequer work of troubles, but in Heaven all tears shall be wiped from our eyes.

He asked several times if the Sheriff was not come, saying, why stayeth the wheels of his chariot? why do they drive so heavily? I am ready blessed be God, I have nothing to do but to die.

Word being brought that the Sheriff was come, he makes hast to be gone, and his Wife stepping after him took him by the arm, whereupon he said, *O do not hinder me from going to Jesus Christ.*

And then with a chearful countenance, taking leave of his friends, he went to the sledge that carried him, whereon was also carried the Head of Major Gen. *Tho. Harrison*, with the face bare towards him; and notwithstanding that dismal sight he passed rejoycingly through the streets, as one born up by that Spirit which Man could not cast down. Being come to the place of execution, when he was taken out of the sledge, he said, *this is the easiest chariot that ever I rid in in all my life.*

Being come upon the Ladder, and the Rope put about his Neck, he rejoiced, saying, *Blessed be the name of God, that I am bound for the sake of Christ.*

Then his Work was to address himself to God, and to that end said, if you please I shall speak a few Words to God in Prayer.

Mr. Cooke's Prayer before his Speech.

Most glorious Majesty, this day is a representation of that great day when all thy poor people shall meet together, multitudes, multitudes in the valley of destruction, Thy poor servant is now come to pay the debt which he oweth to nature, blessed be thy name that thou hast prepared him for it, blessed be thy name sweet Jesus, blessed be thy name. O that all thy poor people that are here if possible may feel something of that divine power and assistance of God, that thy poor servant now feels at this time; blessed

sed be thy name. I am a poor creature, a poor sinner, and the Lord might justly withdraw from me, and leave me to horrou and searedness, if he should deal with me in justice. But this hath not been his method (blessed be his Name) to leave and forsake his poor servant. Lord let thy blessing be upon us at this time, and let thy blessing be upon England, and let thy blessing be upon all these Nations, and let thy blessing be upon all that are here; Assist us, O Lord, by thy divine Power; give us to see much of thy Power, and let not this meeting be in vain, but let every one here receive benefit thereby, to the praise and glory of thy great Name, and the everlasting salvation of all our Souls (if it be thy blessed will) through Jesus Christ our Lord.

Having ended his first Prayer, he applies himself to the Sheriff and Spectators in this following Speech.

Mr. Sheriff, and Gentlemen,

THE most glorious sight that ever was seen in the World was our Lord Jesus Christ upon the Cross; and the most glorious sight next to that, is to see any poor Creature suffer for him in his Cause.

I desire to speak a few words, briefly to let you understand what a glorious Work the Lord hath been pleased to accomplish upon my Spirit. I bless the Lord, I have ransacked into every corner of my heart, and I have searched into all my Sins, actual and original, secret and open, known and unknown, so far as the Lord hath discovered them to me; and I have confessed them all with a penitential bleeding heart, and contrite spirit; blessed be his Name he hath been pleased to come in abundant manner, and hath been pleased to shew me that the only remedy is the blood of Christ; and I have, blessed be the Lord, applied that precious blood to my poor Soul, and have laid hold upon a Christ, by a true and lively Faith; and there is a sweet calm and serenity in my Soul, and Conscience, blessed be thy Name. I desire to glorifie God, and to give him the glory of all, and to take shame unto myself for any Sins that I have ever committed, that I know to be Sin; and therefore I desire to rejoyce in the God of my Salvation, as *Isai. 61. 10. I will greatly rejoyce in the Lord, my soul*

soul shall be joyful in my God, for he hath cloathed me with the garment of Salvation; he hath covered me with the robe of righteousness, as a Bridegroom decketh himself with Ornaments: and as a Bride adorneth her self with Jewels: Even so the Lord delighteth in me. And as the earth bringeth forth her buds, and as the garden causeth the things that are sown in it to spring forth: so the Lord will cause righteousness and praise to spring forth before all Nations.

And *Isaiah 43. 9, 10.* *Ye are my witnesses, saith the Lord, I do desire to bear a testimony unto God, and to Jesus Christ, for justice and truth, and righteousness and holiness.*

The Lord knows I have no malice upon my heart against any Man or Woman living upon the face of the Earth; neither against Jury that found me guilty, nor Court that passed sentence; I desire freely to forgive every one from the bottom of my heart. And as concerning this great dispensation you may (it may be) desire to hear something of it. Truly, I say, as to the King's Majesty, I have not any hard thoughts concerning him: my Prayer shall be for him that his Throne may be upheld by Truth, and by Mercy; for *by mercy, as Prov. 23. the Throne is upheld.* But I must needs say, that poor we have been bought and sold by our brethren, as *Joseph* was.

Brother hath betrayed brother to death; and that Scripture is in a great measure fulfilled, *Math. 10. 21. The father against the son, and the son against the father; and brother shall deliver up brother to death.* I desire for my own part to kiss the rod; and I do desire (if it may please the King's Majesty) that no more blood may be shed after mine: it may be the Lord will put it into his own breast.

Here is a poor brother coming, I am afraid that he is not fit to die at this time; I could wish that his Majesty might shew some mercy.

The Sheriff interrupted in words to this effect: *let that alone, for the King's Majesty hath Clemency enough for all but his Fathers Murderers.*

Mr. Cooke replied, Then I shall proceed to speak something concerning my Profession and Faith, which I bless the Lord, is founded upon the Rock Christ Jesus. I do not expect

pest Salvation for any thing I have ever done, but only lay hold upon Christ as a naked Christ, and there to bottom my soul.

I can say to the praise and glory of God, that I have endeavoured in my place and to my power, to do that which might be to God's Glory, according to the best of my Understanding. I have stood for a Gospel Magistracy and Ministry, and that many delays in the Law might be removed, (and that thing I have much suffered for) I say its good both for King and People, that many delays in matter of Justice should be removed, and that publick Justice might be speedily and cheaply administred.

And as for my Profession, I am of the Congregational way, I desire to own it, and am for liberty of Conscience and all that walk humbly and holily before the Lord; and desire to walk in the fear of the Lord, and I believe it is a truth, and there can be nothing said against it. I do confess I am not convinced of any thing I have done amiss, as to that I have been charged with, I am not indeed; neither did I understand the Plea of the Court, that if the Lords and Commons had brought the King to the Bar, and had set him over them again, their bringing him to the Bar had been Treason.

I desire never to repent of any thing therein I have done; but I desire to own the Cause of God and Christ; and am here to bear witness to it, and so far as I know any thing of my self I can freely confess it.

Here the Sheriff interrupted him again, desiring him to forbear any such expressions.

Mr. Cooke replied, It hath not been the manner of English Men to insult over a dying Man, nor in other Countries among Turks or Galliaffes.

The Lord bless every one of us, and help us, that we may look more to the honour and glory of God than the concerns of our own lives: for alas, what is a poor miserable life to us, but that therein we might give honour and glory to the God of all our mercies.

And if there be any here of that Congregation to which I was related in the time that I lived here, I would commend to them that Scripture, *Phil. 2. 17, 18. Yea, and if I be offered up upon the sacrifice and service of the Faith, I joy and rejoice with*

with you all, for the same cause also do ye joy and rejoyce with me. And Deut. 18. 11. The Lord God of your Fathers make you a thousand times more than you are, and bleſs you as he hath promiſed. The Lord be pleaſed to ſpeak comfort to them, and to all them that fear the Lord.

The Lord keep *England* from popery, and from ſuperſtition, and keep it from prophaneneſs, and that there may not be an inundation of Antichriſt in the Land. And that is all the harm I wiſh unto it.

The Lord hath forgiven me many thouſand talents, and therefore I may well forgive thoſe few pence that are owing unto me. I bleſs the Lord I have nothing lying upon my conſcience, but I can unbosom my ſelf to every one, and to the throne of free grace, in the ſimplicity of my ſpirit, I have endeavoured to do nothing but with a good conſcience, and through the integrity of my heart though accompanied with many frailties.

I deſire to bleſs the Lord, my lot was rather in *Ireland* than here, here I have been more known where I have given the Offence.

The Sheriff again interrupted him.

Mr. Cooke replies, Sir, I pray take notice of it, I think I am the firſt man that ever was Hanged for demanding of Juſtice, therefore I hope you will not interrupt me.

I ſuppoſe you were there, and do bear me witneſs in your conſcience, that there was not any thing then, that I did not communicate to the Court, that I now ſpeak upon the Ladder.

If you will believe the words of a dying man, I ſay as I muſt give an account, I have nothing lyeth upon my conſcience. We muſt all meet together at the great day of the Lord to give an account of all our Actions, (and then it will appear) the Lord grant we may meet with Joy and Comfort.

I have a poor Wife and Child and ſome Friends left, I deſire you that came along with me, to commend to them, *Pſa.* 54. 4. 5. and 10. ver.

I hope the King and Parliament will conſider our poor Friends as to their Eſtates, you know that thoſe Lords that

formerly suffered under the Parliament, did not lose all their Estates; I hope there will be some consideration as to Justice, (least that our small Estates prove a poyson amongst their great deal) and my poor Wife and Relations suffer.

The Lord grant that mercy may be shewed that mercy and righteousness may magnifie and exalt it self above Justice. I shall not hold you long; I shall desire in the fear of the Lord to give my self (as in the 12 Rom. 1.) *A living Sacrifice, Holy and Acceptable unto God, which is but a reasonable service.*

And so I do intreat that I may have a little time to call upon the Lord, unless there be any thing more desired, or any one that would ask me a question.

Truly I forgive all from my heart, I have nothing upon my heart to accuse any of them withal. I bless the Lord I have a clear Conscience, I say it in the integrity and simplicity of my heart, (I do now appeal to the great God, to whom I must give an account of what I have done) knowing that all my Guilt is washed away in the blood of Jesus Christ, (and before him I hope to appear,) and have nothing else to plead any thing at all for me.

And so I hope that I have declared my self with simplicity and integrity, in a few words that you may understand my mind.

I shall speak a few words to the Lord in Prayer, and shall not trouble you further.

Mr. Cookes Prayer.

Most Glorious Majesty, I beseech thee, so to warm my Heart, and fill it so full of the Love of Jesus Christ, that it may never be cool any more; Oh that the Lord would now appear Graciously to shew himself a wonder working God, in bearing up the Heart and Spirit of thy poor creature, it is no matter how bitter the Cup is, if the Lord give strength to drink it, and no matter how heavy the Burden be, if the Lord be at one End, and uphold the other, and bear the burden himself, or lay no more upon his poor Children than they are able to bear; the Lord give strength to all that are to bear this burden; the Lord be with all that are yet to suffer in this cause, and double and treble seven-fold

fold of thy Spirit upon us, let us not stand it out against our Reasons and Judgments and Consciences. If any did pursue power and interest, and did not look after the good of God's Poor, People, and the good of the Nations, the Lord forgive them. The Lord knows the Simplicity of the Hearts of his poor Servants that are gone before, and of those that are to come after; I desire that all thine may have hearts willing to suffer for thee, to make confession of Faith in Christ Jesus, I know is nothing, I know it is not enough only to confess in Words, to confess in Doctrinal Evangelical Truths, and to confess by a holy life and conversation; and if the Lord call any of his poor Children to seal the truth with their blood, yea their precious blood, it is their duty also; if the Lord Jesus had come down from the Cross, and had not shed his most precious blood, and had not by that blood gone to Heaven our Salvation had not been. Lord let it be well with England, the Lord hear me for my poor Friends and Relations, for my poor Wife and Child; unto thee Lord I commend the cause of God, and of Jesus Christ, And remember poor Ireland wherein I had a lot and interest, the Lord remember them all, and help thy poor Children to continue faithful unto Death, that so we may receive a Crown of life, for the sake of our Lord Jesus Christ: and so I come Lord Jesus, Oh receive my Soul! Send down a Guard of Angels to convey my soul into Abraham's Bosom; Receive my soul, O Lord, into thy hands I commend my Spirit. And I desire to appeal to thee O Lord, thou art the great God of Heaven and Earth before whom all controversies must come.

I believe there is not a man in the world whatever he be, but hath some reverential fear of death; but for any sinful vitious fear, I bless the Lord I have not the hundredth part of a dram upon my Conscience; if it were my wedding day I could not more rejoyce in the Lord, because it is a consummation of that marriage that my Lord Jesus hath made up with me. Blessed be thy name, me-thinks I do see with Stephen, even by the eye of faith, Heaven open, and the Lord Jesus ready to receive my poor soul. And oh that I may with Ezekiel see the glory of God; and see, with Isaiah, the Lord sitting on his Throne of glory. And oh that the love of the Father, and of the Son, and of the Spirit may warm my heart, and carry me up from the beginning of this

passage to the end and close of it. Lord Jesus come and receive my spirit, and sweeten this cup, and let me say, The cup which my Father hath given me, shall I not drink of it? And I leave all into the hands of the Lord, that if it be the Lords will every one that belongs to the election of grace may meet with comfort at the great day, and that we may shake hands together, where no office of love shall be unrewarded, nor any unkindness shewed to the people of God.

But within a few hours I shall be in the harbour; I am just now entring into it, I would not go back again for all the world.

Blessed be the Lord I despise the shame, and am willing to endure the cross, for Christs Sake; because the Lord Jesus, who is the Author and finisher of my salvation, did it for me. The Lord pity those that follow, and bear up their hearts.

The Lord help his poor people that find any thing upon their soul; that they should stand fast unto the truths of Jesus. Alas, we shall be but a few days here, and Heaven will make amends for all, and we shall glorifie God in eternity, where we shall enter into a sinless, timeless, and temptationless estate, and never meet with sorrow or troubles any more; but the Lord will receive us to himself, and then the innocency of thy poor servants shall be vindicated and we shall be ever with the Lord, blessing and praising his holy name.

When Elijah was taken away, the spirit of Elijah rested on Elisha, who stood up in his stead. And when John the Baptist was cut off, the Lord had his Apostles to supply that office. The Lord will have profit in the Death of his Children. I believe that an Army of Martyrs would willingly come from Heaven to suffer in such a cause as this that I come here to suffer for.

I desire to bewail that I have not had so much love to the Glory of God therein as I ought. But as to the thing I come to suffer for, I have not had any thing or act come to my mind with less regret, and greater comfort than this.

And as for those that brought me hither, I do forgive them, I have not one hard thought concerning them, the blessing of the Father, Son, and Spirit be with them.

Oh that the Lord would grant that no more might suffer; and so Dear and Blessed Father I come into the bosom of thy love, and desire (to enter into that Glory which is Endless and Boundless) through Jesus Christ.

A Let-

A Letter written from the *Tower* to a Christian
Friend, by Mr. Justice *Cooke*.

S I R,

NOW in answer to your loving inquiry how it fares with my better part, I bless God I never found so much internal spiritual Solace and unmixt Joy and Comfort, as I have experimented in these five Months indurance, 2 *Cor.* 1. 3, 4, 5. Let never any Christian fear a Prison, it being the only place where (wanting other books) a man may best study the book of the knowledge of himself, having a long vacation from all business; but praying unto, and praising God in Christ, by the Spirit's assistance. I cannot take *Martha's* part, for none must come to me; nor *Mary's* part to wait upon the ordinances, which my Soul thirsts after; therefore my Chamber is like the *sanctum sanctorum*, where wittingly none may enter but the High-priest of our Profession the Lord Jesus. I did not think that there had been so much ignorance, impotence, impatience, ingratitude, pride, inordinate affection to creature comforts, revenge, diffidence of God, self-love, and iniquity of all sorts in me, as I find there is; who am not only a poor sinner, but sin it self, a very mass of sin. I find it very hard to rely nakedly on God's goodness, not to feel the heat of persecution not to be careful when all is taken away, *Jer.* 7. 17. Lo, so this darkness and filthiness of spirit is only discovered by the light of Christ, by whose lowliness in washing the Apostle's feet, I see my loftiness and want of condescension when I had power; by his patience my many passions and heart-risings against instruments; by his obedience to the death, my reluctancies; by his faithfulness my former back-slidings; by his fruitfulness, and doing good, *Act.* 10. 38. my barrenness and the little good I did when I had opportunity; and by his liberality, my penuriousness; whereby I adore and acknowledge his Justice that he hath most righteously deprived me of my liberty and estate? all which drives me nearer to Christ, and makes me take faster hold of his righteousness. I now understand (through grace) how precious he is; 1 *Pet.* 2. 7. if it were not for

Christ what a miserable condition were I now in? that might suddenly be sent to contend with the wrath of God in everlasting burnings; and this makes me love Christ the more, having forgiven me more than others: and having had ten thousand Talents forgiven me, I would forgive any wrong doers; and this keeps me humble and from censoriousness. I bless God I have ransack'd into every corner of my Soul, I have with *David, Job, Esay, and Paul*, bewailed my hereditary Disease and Heart-corruption. I feel it is as a rotten Tooth that akes, would fain be rid of it, have condemned my self for it, cried out against it, as the ravished damsel, *Deut. 22. 26.* The like for sins done in my inclination, which by preventing grace are secret and only known to God; and I have mourned over my secret sins, only known to God and my self; over the sins of my youth, which were committed faster than can be named; for those which I did not know to be sin, and those that I have forgotten? and especially for my actually known sins, committed against love and light promises and covenants. I have confess'd them all with a heavy bleeding broken and contrite Spirit, and O that I had all sin, as sin, in a greater execration; my grief is for having offended so gracious a Father, that will not damn me for it; if there were no Hell nor Judge I would rather die than willingly offend him any more, and I cannot satisfy divine Justice for one vain thought, therefore I fly to Christ, and close with him upon a free promise as a poor penitent Sinner; no merits but the merits of my Saviour; I take in whole Christ, and not one drop of my pudled Water shall be mingled with the Ocean of his pure and perfect Righteousness; and I give up my self wholly to him, as by a deed of gift, to be at his dispose; and I know he hath received me, *I am my beloveds, and my beloved is mine*, and all is mine, *1 Cor. 3. 22.* death it self; I have a sweet Certificate from Heaven of the pardon of sin, justification, reconciliation, and adoption. I know God's heart and his eyes are upon me perpetually, *2 Chron. 2. 15.* that no tender Father or Mother can have so special a care of any sick imprisoned Child, as he hath of me. I believe that God who hath given a property to the needle to keep fixt, though the ship

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overturn, will keep me faithful to the death, and that I shall receive the crown of life, and stand with as much confidence at the great day, as if I had never sinned; and herein I am confirmed by the Testimony of the spirit, and Scripture evidences.

Blessed be God I do love the Saints, every one that suffers in this cause is as dear to me as my own Soul, my sighs have been many, and my heart faint, since I came hither, not for my own condition (for it is happy) but for the afflictions of *Joseph*; scarce a poor Saint permitted to breath in *Irish* Air: those that will not swear and be drunk, or have prayer in their Families, are counted Fanaticks, *Esa.* 50. 15. I have a dear respect to all God's commandments, spiritual Joy is no stranger to me: I love the Word and Ordinances more than my appointed Food. I desire that all my thoughts, words, and actions may please God, and that all that he does may please me; And I do freely forgive my Adversaries, the Lord herein encrease my faith, *Luke* 17. 5. and I bless God I have a quiet conscience as to the World, and which is good also for being justified by Christ, apprehended by Faith. I have peace with God, *Rom.* 5. 1. and so I descend to the cause for which I am in bonds, which is as good as ever it was; and I believe there is not a Saint that hath engaged with us, but will wish at the last day that he had sealed to the Truth of it with his blood, if thereunto called: for I am satisfied that it is the most noble and glorious cause that has been agitated for God and Christ since the Apostolical times; being for truth, holiness, and righteousness, for our liberties as men and as Christians, for removing of all yokes and oppressions, for a gospel Magistracy and Ministry, and not only for the Priestly and Prophetical offices of Christ Jesus, but for his Kingly also: the peculiar light and work of this Generation being to discover and oppose the Civil and Ecclesiastical Tyrannies intended upon the Nations, by the Pope's *Leger-de-main*, to exalt Christ as Lord and King over mens consciences, to magnifie and make the Law of God honourable, and authentique every where, and to give justice and mercy the upper-hand. As I hear nothing what they intend to do with me, so I am not

much solicitous about it; I do freely trust God to make what bargain for me he pleases. I believe they are as angry with me as any man in the Nations, because *litera scripta manet*, but their cause requires rather silence than eloquence; as for that against Monarchy unaccountable they will be ashamed to oppose it, that which teaches thence, is the stating the Case, for which I had Vouchers, and Warrants for every word; but now they plow with our Heffers; yet great is the truth and that will prevail, as for Petitioning there is not any. I cannot confess any guilt, it is such a Cause that the Martyrs would gladly come again from Heaven to suffer for, if they might, though too many object against me, 1 Pet. 4. 15. *Let none of you suffer as a Murtherer*: I look upon it as the most noblest and highest Act of Justice that our Story can parallel; and so far as I had a hand in it never any one action in all my life comes to my mind with less regret, or trouble of conscience than that does; for the blood must lie upon him, or the Parliament; and I am sure I had no more malice in my heart, than when I was in my Cradle: all that I can be sorry for, is, that I had not such pure, and unbiass'd Aims, at the Glory of God and Exaltation of Christ therein, as I should have had; I neither did any thing *dubitante*, or *reluctante conscientia*, I was so far from a gain-saying Conscience in any thing I acted, that I never scrupled in the least, and the generality of the People have since owned it: I was in mercy a poor Advocate for Christ, and the People of *England*, and if by my blood their cause may be watered, I say (as *Phil. 2. 17, 18*) to you and the rest of the Church of Christ, if I be offered upon the sacrifice and service of your Faith, let us rejoice together: it has been counted shameful for Soldiers to run from their Colours, or desert their Masters, and Principles, but it is more odious for a Counsellor to prevaricate and betray his Client's Cause: I am persuaded that all those that have had a chief hand and are now giving Judgment against themselves, and all good People, in all those points which they formerly contended for, against the King; as the lawfulness of the War, which was granted both here and at *Edenburgh*. The Militia, Negative Voice, power to dissolve Parliaments, conferring great Offices

Offices (as King *James* said, *so long as I make Bishops and Judges, I will have what Religion and Laws I please*) As they are most abominable prevaricators of the honest interest, for they will wish at the last day, that they had been *Jews, Turks or Indians* for the greater light, the greater is their Apostacy and Ingratitude, *2 Pet. 2. 21.* and sure they will have a peculiar Judgment by themselves; for they do openly proclaim the cause of *Barrabas* before the Cause of *Jesus*. *Peter* denied *Christ*, and *Judas* betrayed him, but it was before his Passion and Assension, they never saw the wonderful Works which our Eyes have beheld; but what shall we say, if the Treachery of *Judas* help forward the Work of our Salvation, why may we not hope, that God is whetting his Tools, and gone back to fetch a greater blow against his Oppressors, *Isaac* must not die though the Knife be at his Throat, *Gen. 12. 14.* our case seems to be like theirs, under proud *Haman* the Gallows was erected, but the Royal seed preserved, *Hest. 6. 13. Numb. 23.* the story of *Balaam* is much upon my heart, the shout of King *Jesus* to reign in Holiness and Righteousness is among his People, I hope as much as ever; and there is no enchantment against *Jacob*, therefore he must not be afraid; I am persuaded we shall fare the better for the thousand Curses we had between *Chester* and *London*, *2 Sam. 16. 12.*

Now having endeavoured to satisfy you that the great work is over as to my eternal salvation, and my opinion of the goodness of our Cause; I shall further entreat your patience to tell you that I am fully convinced, that next to that unspeakable gift of *Christ*, the greatest grace and mercy that God can bestow upon any of us, is to call for and enable us to lay down our lives upon this account; suffering for *Christ* being a strong Argument of his Electing love, *Acts 9. 15, 16.* and a greater matter of rejoicing, *Acts 23. 11.* be of good cheer *Paul*; therefore he forbids tears for him upon that score, *Acts 21. 13.* and I have charged my poor lamb not to wear any black for me (if she have wherewith to buy it;) for I shall be in *White*, *Rev. 6. 11.* the Apostle rejoiced to be counted worthy to suffer shame for *Christ*, and would not but speak what they saw with the eyes of Faith, and heard with the ears of the

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the Spirit, *Acts* 4. 20. and the 5. 41. and *Paul* gloried in the tribulation, rejoycing in hope of the glory of God, *Rom.* 5. 23. and took pleasure in reproaches, necessity and persecutions for Christ, *2 Cor.* 12. 10. so *Moses*, *Heb.* 11. 26. for the recompence of reward which is God himself, *Gen.* 15. 1. and the times cannot be so full of terrour and discouragement as the Scriptures are full of comfort and incitations in this particular, to us the Lord's prisoners, *Mat.* 5. 10, 12. why are we sorrowful when Christ bids us to be joyful, *Mat.* 10. 25, 27. there is no safety but to be on Christ's side, for the Son of man shall come in his glory and the Saints also, *Mark* 8. 33, 38. they are not the words of a Child but of Christ, not spoken to affright us, but for our animadversion; Oh this perfidious Generation! how will that word be made good to the Amazement of our Timorous professors, *John* 16. 21. The Ax or a Halter will be less pain than the pangs of Child-birth, *John* 15. 18, 21. we are in nothing to be terrify'd, *1 Phil.* 28. 29. constancy insuffering for good principles is matter of glory in the Churches, and Tribulation will be the portion of our troubles, *2 Thes.* 1. 4. to the end is very precious, *1 Thes.* 3. 8. we live if we stand fast in the Lord: I know you, and my dear Brethren and Sisters are of *Paul's* mind, if I die in my bed being a Church member, you will by the rule of Charity judge me happy; I cannot do you more service than to bear my witness in this Cause of Christ wherein you are so much concerned, I find our Text appropriate to our Condition, *Job.* 12. 23. to 27. Christ's death was like sowing of Corn, which seemed lost, but was our life; so he that counts not his life dear for Christ, though the World count him miserable, yet he hath two special promises to be where Christ is, and that the Father will honour him, it is a following of Christ in Dying for him, Actively or in Affection as appears, *John* 13. 36. 21. 19. by a conformity to his death, *Phil.* 3. 10. *Rev.* 14. 3. some read which died for the Lord, as *Rev.* 20. 4. and 19. 10. which now is counted as bad as Treason, *Heb.* 12. has an ineffable sweetness in it, *Cb.* 11. is the little Book of Martyrs, 12. 1. the spirit says follow your leaders, he is a Coward that will not follow such free Examples; Christ and the Saints behold you, and ye are witnesses for Christ as they were, but

but must forsake all sin, especially your *Dallilaes*, *Herodias* and *Rimmons*, and strive against it; and ye have need of patience, but ye will faint and be weary unless ye look unto Jesus and fear not, for he is as well the finisher of your Faith as the Father of it, he despised the shame, what need you care if they say behold the head, or the heart of a traytor, when your better part is in heaven, and reproves us for being too parsimonious of our blood; we must be prepared for suffering *cruore sanctorum rigatur Ecclesia*. Luther was troubled that he carried his blood to his grave, he loved the Christ's cross more than the 24 Letters, and loved not half Christians, that were only for doing and not for suffering; and though our sin deserve death as from the Lord, yet our enemies mind them not, they punish us for being judges, advocates, and fouldiers for our Lord Jesus, *Psal.* 38. 20.

And as the spiritual man overcomes the Animal, so I am reasoning my self against sence into a willingness to die, for either the times will be better or worse; is there not in probability a great flood of Oppression and Persecution, coming upon the Godly; will not the righteous soul of a just *Lot*, be vexed with the horrible prophaneness, malignity, and contempt of Christ's pure Ordinances that abounds every where; we have heard Justice and Tyranny, Truth and Falsehood, the form and the power of Godliness pleading together, and Judgment was given for God, and his people, but all seems to be reversed, and what was but an *injurie* or *nesciente* before, is now a formal and material contempt, and despight to God and Christ, and the spirit of grace in whomsoever breathing; and what comfort is there in a son, if the Ark be taken, *1 Sam.* 4. 20, 21. she regarded it not, the blessing is to see our children with peace upon *Israel*, *Psal.* 128. 5, 6. it is a mercy to be taken away from the evil to come, *Esay* 57. 1. bestowed upon *Josiah* as a favour, being tender-hearted, *2 Kings* 23. 19. 'tis a rich mercy to get into our heavenly house, and harbour before the storm come, *2 Cor.* 5. how much more blessed to give our polluted blood for his sake who shed his most precious blood for us; and if the times prove good, for civil or sacred liberties; *Moses* envied not those that were to go into *Canaan*, because he was invested with a better possession, a heavenly Country,

Country, *Heb. 11. 16.* if there be such glorious times to be expected upon earth as you and I have discoursed of, I am sure there is no less joy in heaven; and we that are there shall have no cause to envy our militant brethren; besides, as for my self I can expect to do little for God, I am three parts dead, 70 being divided into four, the shadows of the evening are upon me, and aches and pains are inseparable companions, if now Christ should graciously accept of my poor crazy body, and bring me to an honourable and easie death for him, blessed be his name for ever, *1 Chr. 29. 10, to 16.* The heathen could say, *Dulce est pro patria mori, pro Christo mori dulcissimum.* How did the Romans glory to die for their liberties, and after for the glory of their *Cæsars*? and how glad are the poor *Spaniards* and *Muscovites* that they have a life, a wife, or a son, for their King: and how glad are the City that their feastings will be received. A Popish Friar told me lately, that if he were of my opinion for assurance of salvation, he would not willingly live an hour longer for all *Ireland*; yet Saints too much fear this grim porter death, though when executed we go from the Cross to the Crown, *Jam. 1. 12.* indeed it is below the profession that we have made, to be now troubled; in prosperity I would be a worm, but now the Lord makes us bold as Lions, that being called to suffer after so blessed an example, we may think it an honour to pledge our master in his own cup, and commit the keeping of our souls to him in well-doing as unto a faithful creator, *1 Pet. 2. 21.* and *4. 19.* for he will never leave nor forsake us, but will give us shoulders to bear what he lays upon us, *1 Cor. 10. 13.* let us therefore who are the children of *Zion* be joyful in our King, as others (who one day will appear to be Fanaticks indeed) rejoyce in them, for these present sufferings are not worthy to be compared with our future glory, *Rom. 8. 18.*

Sir, I bless God I have an invincible peace and a secret joy surpassing my expression; and I press towards the mark, *Phil. 3. 14.* yet divine cordials are not constant, but often some fainting fits, and dispondencies; the spirit bloweth where it listeth; where it is not comforting it is supporting, *Esay 40. 29. & 41. 10.* if I were not very feeble, how could God's power appear in my weakness. I bless his name that his arrows are not

not within me, nor do the terrors of death take hold upon me, as *Job* 6. 4. for I never was better as to the frame and temper of mind and body, than since my restraint; and blessed be the comforter I am not long without him. My cousin *Harrison* is very full of spiritual comfort (as the Gentleman *Jaylor* tells me) and bids me chear up, and indeed it will be a mercy if those who are called forth to testifie for Christ prove courageous, as *Jos.* 1. 9. but truly as for my part, it does not lie on that side, I fear least I may be too much exalted with the honour of it though I know the Lord can soon withdraw; we live by faith and not by sight, our happiness is in our union rather than in communion and sensible gusts; and I rather fear a lingring death with severity, some for banishment, *Ezek.* 7. 16, &c. but let the Lord do with me as he pleaseth, as *Joab* said, *1 Chr.* 19. 13. *Omnia co-operantur in bonam, Rom.* 8. 28. So having unbosomed my heart unto you, that you and such whom you judge faithful and secret may the better spread my condition before the Lord, I would intreat you to beg for me more particularly, 1. That God would set home upon my heart, and fulfil in me with power your sweet Scripture (for which I heartily thank you) *2 Tim.* 1. 7, 8, 9, 12. that I may not be afraid of their terrors, nor troubled, but may sanctifie the Lord at that time, and be able to answer all opposers, that they may be ashamed when we suffer for well-doing, *1 Pet.* 3. 14. to 18. 2. That I and the rest of our brethren and companions in tribulation, and in the kingdom and patience of Jesus Christ, for the word of God and his testimony may be strengthned with all might according to Christ's glorious power, unto all patience and long suffering with joyfulness, as *Paul* prayed for the *Collossians*, *Col.* 1. 9. to 14. being filled with knowledge, wisdom, and spiritual understanding, and feeling those grounds of joy as an inheritance of light, and deliverance from the power of darkness: that we may be *testes* and *confesses* to agree in our testimonies, and not disparage so good a cause. 3. That we may be ready not only to be bound but to die for Christ, and the vindication and justification of his Evangelical Doctrine; we have made high profession and confession of the everlasting Gospel, and it is a blessed thing to believe with the heart, and confess with our mouths,

mouths, and in our lives and by active martyrdom, as *Brooke, Ireton, Hampden, Pickering*, and others have worthily done, who are safely arrived, expecting us, and we are yet upon the waves; but the most excellent, honourable, rich and fruitful confession of Christ, whereby we can make the most efficacious demonstration of our election and faith in Christ, and love in his glorious person with most supream illustration of God's glory is to lay down our lives as the martyrs did to seal and confirm the truth of our professions with our blood, for the cause of Christ, and safety of our brethren, *Rom. 16. 4. 1 John 3. 16.* as our blessed master, after he had confessed and preached the glory of God, and our salvation, confirmed and approved all by miracles, and his most holy life made a good confession under *Pontius Pilat*, *1 Tim. 6. 13.* without which all had been ineffectual: So I have often thought for the discovery of hypocrites, cementing of the Saints in more concurring affections, trial of faith, exercising of patience, and love to Christ, and for many other glorious ends God would call for some of his childrens blood, which will be the greater favour to them whom he shall count worthy of it, because I think this will rather be a *Julian* than a *Neronian* persecution, always provided that we be found in the doctrine of the covenant of grace, that God does not love us because we live soberly, righteously, and godly in this present world, and are willing to forsake all, and lose our lives for him.

But because he loves us, and has singled us out from the world, therefore he enables us so to live, and to do singular things for his honour and glory, and willingly to follow the *Lamb whithersoever he goeth*, *Rev. 14. 4.* for the love of Christ constraineth us, *2 Cor. 5. 14.* O that we had more enlarged hearts for our King Jesus. 4. (That you may fully hit my condition) I have some trouble upon me concerning the loss of my temporal estate, especially for my poor, tender loving wife and child: I was a purchaser, and had a stock of cattel, and being wrongfully made prisoner two months before any speech of a King I was surprized and could save nothing, nor get 20*l.* of my estate since *Michaelmas* last. They promised to bear my charges to *London*, but at *Chester* I was forced to borrow money, or must have come a-foot: therefore pray be earnest with
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the Lord that we may take the spoiling of our goods more joyfully, knowing that we have in heaven better and an enduring substance, *Heb. 10. 34.* and that we may not faint at these momentary afflictions, which work so well for us (wherein riches and honours are not so) according to that passage, *2 Cor. 4. 3* last verses, and be affected with eternal joys. It is said that I shall be put down into the hole for non-payment of great Fees: my comfort is that God will be with me, there they cannot shut out God's spirit from me, which is an everlasting spring and Jubile; nor will that be so bad as *Jeremiah's* Dungeon, nor as *Joseph's* Irons which entered into his soul, though indeed we are sold by our brethren as *Joseph* was, that the Scripture may be fulfilled, *The brother shall deliver up the brother to Death, Matth. 10. 21.*

I know not how to conclude, not knowing when I may have another opportunity to converse with you, I am overjoyed to think they cannot reach my Soul, and that our cause is invincible, and it will be a happiness if God see it good that none might suffer death, but such whose Souls are out of danger but being upon the account of civil liberties as well as spiritual, our only wise Father will order all for his own Glory, and this only silences all murmurings, and master save thy self, that what he pleases must needs be best for us; he being infinite, Wisdom, Love, Power and Goodness. Had the King made his way by the Sword, we might expect his forest strokes; but for the men of *Keilab* to deliver us up for the Parliament to sacrifice us, these men that sit by a Common-wealth Writ, for whose Privileges we adventur'd our all, and who cannot condemn us but must give up the Cause, and give Judgment against themselves, and all the good People in the Nation; let the *Indians* judge of it, if any of the Elect think hardly of us, that we do not cry *peccavi*, and make our recantation, it will not last long, and it is no matter what others say, for they must receive their Judgment at the Bar of Christ, and we shall judge our Judges; therefore let us not entertain damps of Dispondencies. My rejoycing is in a good God, a good Cause, a good Conscience, I have the Justice of Heaven on my side, and God's loving-kindness which is better than life, if we find
injustice

injustice and cruelty here, men's Law at *Westminster* will be adjudged Treason in Heaven, it will not be long before all Tears shall be wiped from our Eyes, and if our innocencies be not vindicated, and cleared up in this life, as *Jobs*, *Mordacas*, *Josephs*, and *Daniels* and *Susannas* were, yet at the Revelation of the righteous Judgment of God, it will appear before Men and Angels, that we are not Traitors, nor Murtherers, nor Phanatiques, but true Christians, and good Commonwealths-men, fixt and constant to the Principles of Sanctity, Truth, Justice, and Mercy, which the Parliament and Army declared and engaged for; and to that Noble principle of preferring the Universality, before a Particularity, that we sought the publick good, and would have enfranchised the People, and secured the Welfare of the whole groaning Creation, if the Nation had not more delighted in servitude, than in freedom. And if we now suffer a Martyrdom of body, we shall be some of the Souls under the Altar crying, *How long, O Lord, holy and true*, and though we can patiently digest their Tortures, and leave all vengeance to whom it belongs, yet who knows but that our blood may be their poyson; but then after all unjust Sentences of men how sweet and honorable will the Judgment of Christ be, *Matth. 25.* (*Euge bone serve*) of entring into our masters joy, when the Kings of the Earth and the chief Captains and Dukes of *Edom* shall with the Mountains and Rocks to fall upon them, *Rev. 5. 16.* I bless God my poor Wife does much encourage me, to be faithful to the Death, and she is a meet helper indeed who helps her Husband so to Heaven, as in a Fiery Chariot; she is one who bears an unfeigned love to Christ and all the Saints; I intreat your tender care of her and my Child, *providebit Deus*, *Jer. 49. 11.* I shall leave her that Scripture, and *Esa. 54. 5. to 8.* while they cannot take away by confiscation; when we were in the storm we took our leaves each of the other, * and tho' we have not paid our Vows at *Bethel*, yet I trust (as was then promised) we shall be willing to go to Christ if he call through a Sea of blood. But, O the infinite Wisdom and

* See the relation of his passage by Sea from Wexford to Kingfale.

Love of God, and the unsearchable Riches of his Grace; that if I had been drowned the Malignants would have said: though he escaped by Land, yet Divine Vengeance overtook him at Sea; that now he should vouchsafe me (poor me as *Gideon* said, *Judges* 6. 15. one of the meanest Lawyers in *Westminster-Hall*) the honour of bonds and an effectual if not effectual Martyrdom for being an Advocate for my blessed Advocate and the good People of *England*.

I have been the larger not knowing what use this may be of, if my mouth should be stop'd; if you hear any report of me contrary hereunto believe it not, so you have my heart; and a had rather be buried alive, than my Tongue or Hand should differ from it. O pray much for me, and pray again and mend your prayers, as I have great need to do, if you know what pitiful poor short and confused prayers I make in a day; yet Father into thy hands I commend my spirit is a prayer, no period better than prayer, therefore now unto him that is able to keep you (and me) from falling, and to present you (and me) faultless before the presence of his glory with exceeding joy: To the only wise God our Saviour be Glory and Majesty, Dominion and Power now and for ever, *Amen*.

Yours for ever in our Dear Redeemer,

John Cooke.

A Letter written by Mr. Justice *Cooke* from the Tower to his Wife.

M*T* dear lamb, blessed be God for Jesus Christ, and for a prison, where I find much of his comforting presence; tell sister Jones that she keeps but two or three Sabbaths in a week, but in prison every day is a Christian Sabbath, not only to cease from sin, but to praise God, singing *Hosannas* and *Hallelujahs*. I can but smile to think that they cannot binder me from preaching, for I preach twice every day to my self, and yesterday, blessed be the Comforter, my heart was brimful of joy and consolation, from *Psalm* 73. 25, 26. wherein I observed three points, or doctrinal conclusions.

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1. That

1. That a Saint should love and esteem nothing but God, and for God ; all discourse is vain but what aims and tends to God's glory, 1 Cor. 10. 31. a husband, wife, child, friends, and all creature comforts are to be loved so far as we see God in them ; as the creatures do not serve us but God sustains us in them, and by them, so our affections and desires must not be fixed upon them, but terminate in God ; as the waters in the river never rest till they return to the Sea, so our loves must only pass by the creatures, and settle in God ; and the more we see the Image of God in any one, there our love is to be most in the Lord, and for his sake this love is the greatest weight of our souls, and transforms into the nature of the thing beloved, let us endeavour to put out more acts of love to God in Christ, Cant. 1. 16.

2. From those words, my flesh and my heart faileth me, but God is the strength of my heart, the chief residence of the soul being in the heart, I observe, That there is something more dear to a Saint than his own Soul, which is the Soul of his Soul, and the Life of his Life, and that is Jesus Christ, who dwelleth in our Souls by his Spirit, Rom 8.10,11. for as the body is dead when the soul leaves it, so the soul is dead without Christ, which may teach us two lessons. 1. To love Christ more than our own lives or relations, because he is the soul of our souls ; this did Moses, Exod. 32. 32. and Paul, Rom. 9. 3. they preferred the glory of God in the salvation of their brethren before their own souls, if it could have been, which is a Christian duty ; though very hard ; and if divine justice should say to us at the great day, the Soul that sins must die : we may say, why then did God punish our Lord Jesus who is the soul of our souls, more dear to us than our souls, and if God had seen it good we had rather have suffered in our own persons to have saved him ; but we not being able to undergo the Wrath of God, that innocent and immaculate Lamb was put to death, who is the heart of our hearts, the soul of our souls, and the spirit of our spirits ; for justice is more than abundantly satisfied, much more than if our wills, souls, and bodies had suffered, and the debt was all paid together which had always been paying if we had gone to Hell, for as to Christ our salvation is all peace, strict justice, who felt nothing but extremity, the Father would not spare him, Rom. 8. 32. but as to us it is all mercy that his satisfaction should

should be accepted for us, and that thee and me, and dear Daughter too; and sweet love I trust should be vessels of that mercy and free grace, O blessed be his glorious name for ever.

3. My meditations were principally carried out from the joys of heaven and from those words, Whom have I in heaven but thee? and thou art my portion for ever, I was ravished with this consideration, that the joys of Heaven are eternal: or thus, The Saints pleasures have a beginning, but no ending. No doubt but this is infinite matter of joy to Abraham, and all the Saints in Heaven, to think that they shall continue in their joy and glory, not 100 or 10000 millions of years only, but for ever, that when they have been there 100000 millions of millions of years, as to what remains it will not be a minuit, but then we begin our felicity, therefore Christ calls it a life eternal, Matt. 25. 46. Therefore if a man could live here 1000000 millions of years, and enjoy his hearts desire, and all the variety of pleasures which this world can afford, and afterwards be deprived of Paradise, or be damned, what a sad bargain would that be; for the Saints are all that while in heaven, and shall be there for ever; and if a man might be always younger and live here for ever, if such a thing were possible, yet could not that content him, because he is capable of good; and if it were put to the choice of an illuminate Christian whether to live here 1000 years in health, wealth, and all that soul and body can desire, or to be in heaven but one day, he ought to choose the latter: Ps. 48. so one minuits being in heaven is to be preferred before a perpetuity of all worldly pleasures, for to be absent from the Lord is more grievous than all humane delights can be comfortable, if it were but a pretty good condition, if men were sure always so to continue it would be comfortable: therefore to think of an everlasting crown of Glory, is a soul-melting consideration.

If then this life be not a minuit in comparisom of the perpetual life of the blessed souls in heaven; how greatly are they to be blamed that for a little vain honour, flattering pleasure, or the momentary sinful delights of this evil world, squander away their precious souls. 2 As the joys of Heaven are eternal, so they are exceeding great: if the men of the world which have their portion here, Ps. 17. 14. have such stately houses and pleasant palaces

and delights, shall we not think that God hath provided inestimable treasures and pleasures in the world to come for his children : for whom do earthly parents treasure up, but for their children ; but if we could but apprehend what they are, they are not the joys of Heaven, for no heart can conceive what God has prepared for them that love him, 1 Cor. 2. 9. the eye hath seen much, and the ear heard more, and the heart may conceive much more, but eternal pleasures are inconceivable, yet the spiritual eye hath some glimps of it : a poor Saint finds more solid zeal and joy in a crucified Christ, poor and naked and despised in the world, than all the Dukes of Edom ; their rich and glorious pomp and magnificence ; but all the Saints living here have not so much joy and splendour as the least Saint hath in heaven. The Scripture mentions three heavens, where the Fowls are, the starry Heaven, and the Heaven of Heavens, 1 Kings 8. 27. the sun is conceived to be 300 times bigger than the earth, and every star bigger than this lower world, and that all the earth is but as a mote and not so big as a fly in comparison of the Emperial celestial Heavens, where the souls of the Saints are with God and Christ ; and by the largeness of the place we may guess at the greatness of the joys and pleasures, that the Elect are but few in comparison of those who shall be turned into Hell, Ps. 9. 17. as it were thrust into a hole together, Matth. 25. 23. our Lords joy can be no little joy, and it is too big to enter into it. Next I consider wherein the substance and essence of heavenly joys does properly consist by 1 Cor. 13. 12. it seems much to be in sight and knowledge.

1 For sight to see God face to face, to see the beautiful person of our dear Lord Jesus, to see all the blessed Saints and Angels, and to be one of them, how joyful is the thought of it ; for if the damned (between whom and the saints there is a great gulph fixed, Luk. 16. 26.) shall see Abraham and the prophets in the Kingdom of God, Luke 13. 28. when themselves are thrust out (poor saint-haters that now persecute the heirs of glory, & scorn their companies, would then feign crowd into heaven with them) much more the Elect themselves ; but the difficulty is, how we can see spirits with bodily eyes, and bodies with spiritual eyes. I rather think that Job 19. 25, 27. is to be understood of Jesus Christ, whom Job shall see with the eyes of his body, and by
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the Eyes of our souls we shall see God the Father and the blessed spirits; and our comfort is that we shall for ever be with the Lord. But here the Scripture has no Tongue to speak, we must not too curiously inquire for knowledge, it is a wonderful expression, we shall know even as we are known, God knows us perfectly and what shall be our last thoughts, Psal. 139. 1, 2. All the saints upon Earth do not know so much as one saint in Heaven, where faith is turned into Vision, and hope into Fruition; then shall we know the love of Christ which passeth all knowledge here below, Ephes. 3. 19. how all the love that ever God vouchsafed to the world, is but as a spark to the Oven, red-hot in comparison of giving Christ; but I believe we shall never know God comprehensively [but apprehensively] that is so much of his glory as we shall never know more, for there will be new springs and fresh discoveries of his infinite Grace, Glory, Goodness and Perfections streaming forth continually to us, that will be as everlasting fountains of joy and glorious rejoicing to our souls and bodies; as one at sea sees a great way, but not to the end or bottom of the sea, for we shall know as much of God as our heads can hold, and love God as much as our hearts can contain; and no doubt but there are different degrees of glory in Heaven, as the Saints know more or less of God, whereas when Vessels of several sizes are cast into the sea, they are all full, but some hold more than others, 2 Cor. 5. 4. God works upon our Hearts as engravers upon Gold or Marble, and the more of his image he stamps upon us in this life, the liker shall we be to him in Glory, but every saint shall have his own fulness of knowledge.

3. I think that heavenly joy does much consist in the will, in the transformation of our wills into the will of God; for as we heard an excellent sermon from 1 Cor. 6. 17. at Northampton, he that is joyned unto the Lord is one spirit; for I believe that mystical oneness which our dear Lord so sweetly prayed for, Joh. 17. 11, 21, 22. is meant of oneness in will and affections, when the soul shall have all that it can desire and nothing but what it does desire, and shall will nothing but what God wills, and not only to be satisfied with the will of God, but to taste a sweet complacency and delight in it, that it is infinitely best to be there.

4. This transforming of the will proceeds from the apprehension of divine love, where the soul finds that God has loved it from all Eternity, that his eye and his heart are perpetually upon it for good, and knows that it is a free, pure, unchangeable, and eternal love, this causes an eternity of joy; and a love is the sweetest grace in the heart (the very sugar of the soul) that makes a Heaven upon Earth, where it is without dissimulation and spiritual, so heavenly joy will consist much in love, which must needs flow from sight and knowledge, for as Paul says, 1 Cor. 2. 8. it is only ignorance of God that makes so many to oppose the way of truth and holiness; so the sight of divine glorious beauty, and the knowledge of infinite wisdom, power, love, and goodness in Christ, causes the soul to love God, and Christ, and the Spirit, much better than it self: for if the Spouse be sick of love here, Cant. 5. 8. and if the fire of love constrain militant Saints not to live to themselves, 2 Cor. 5. 14. ingenuity being the great principle of the Gospel not to work for life, but from life, and to do all from a spirit of love, much more the Saints triumphant: but the more I think of this blessed state of glorification, the more I am at a loss in it, Psal. 16. 11. in God's presence there is fulness of joy, and at his right hand there are pleasures for evermore: and David says, Psal. 123. that they that be wise shall shine as the brightness of the Firmament, and as the Stars for ever and ever: but one Star differeth from another in glory; and Matth. 13. 43. the righteous shall shine as the Son in the Kingdom of their Father. And our Lord says, in my Father's House are many mansions, and Paul calls it, a far more exceeding and eternal weight of glory, 2 Cor. 4. 17. and a building of God, a House not made with hands eternal in the Heavens, where we shall be so soon as the soul parts from the body, 2 Cor. 5. 1, 8. and that it is an inheritance in light, all light and no darkness, 1 Coloss. 12. and that the Saints shall judge the world, and when Christ shall appear, we shall be like him; for we shall see him as he is, 1 John 3. 2. in the New Jerusalem there shall be no sorrow, no crying, no pain, Rev. 21. 4. and the gates of the City are pearls, and the street is pure gold, ver. 21: the glory of God lightens it, and the Lamb is the light thereof, v. 22. in it there is a pure river of water of life, and a tree of life, which bears fruit every month, Rev. 22. 1, 2. and there shall be no Curses there,
and

and there shall be no night, and we shall reign for ever and ever, ver. 5. All these are soul-ravishing considerations, and I have suckt much comfort from Psal. 17. 15. I shall be satisfied when I awake with thy likeness; and 1 Thess. 5. 10. who died for us, that whether we wake or sleep we should live together with him; therefore let us comfort our selves and edifie one another with these words, and Mr. Burton's Text, Heb. 12. 22, 23. it is sweet also to consider of the glory of the body, 1 Cor. 15. 42, 43. it shall be an incorruptible, glorious, powerful, spiritual body, there will be charity, agility, penetrability, impassibility, no hunger, no cold, it shall be fashioned like unto Christ's glorious Body, Phil. 3. 20. What a comfort is it to thee and me that have such crazy bodies! ulcerous Lazarus shall be as sound as a Fish, and we shall have an everlasting spring of health and strength which shall never decay.

Use. Let this teach us more to mind eternity, to study the joys of Heaven, that we may receive a full reward, 2 Ephes. to 8. as Mr. Whitfield once exhorted Oliver in every thing to mind and eye eternity; for they are the brave men and women that will be so at that day. the pleasures of this world are so far from satisfying the understanding and will, which are capable of God, that they cannot satisfie any one sence; never any Musick so sweet, but a man will desire to hear better, no object so beautiful, no meat so pleasant, but a man will covet to see that which is more lovely and tastes sweeter, Eccles. 1. 8. study that Book and Canticles well, that the spirit may convince us of the vanity and vexation of all creature-delights and of the fulness and excellency that is Jesus Christ, the best condition in this life is but a bitter-sweeting, all our comforts are impure mixt with Wormwood, no Rose without Thorn, and the bitter is more than the sweet, but in Heaven all our delights are pure and unmixed, there is perfect joy without any grief, solid comforts and no afflictive misery, no Envy, no Emulation which abounds here; for every Saint has what his heart can desire, it is a Sinless, Sorrowless, Temptationless, Oppressionless, Sickless, Timeless and Endless estate, where being once arrived we shall never fear parting any more, therefore [my dear sweeting] let us wait patiently and chearfully for that blessed translation from Earth to Heaven; we must begin our Heaven here, the more prepared to die, the fitter we are to live, so let us live, so let us die, that we may live Eternally. If thee likest such poor

breathings and broken Meditations, thee may'st command more of them, I leave thee and me and my dear child and our Christian Relations with thee in his Arms who is in Heaven at the right-hand of the Father, therefore we need not fear what man can do unto us, Esa 51. 12. To him I am, thine for ever,

Thy loving Husband during this Life,
John Cooke.

*Another Letter from Mr. Cooke to a Friend after
Condemnation.*

DEAR Brother, beloved in the Lord, *condemnatus sum ad vitam*, and this is my Cordial Farewel to you and all Saints, from my *Jeremiah's* prison; to morrow I shall be in eternal glory, in the bosom of Christ, where our father *Abraham* is, and a guard of Angels will convey my soul thither. Never let God's people fear a prison any more, for the Lord's supporting or comforting spirit hath not been absent from me since my indictment. I writ a Letter to you formerly, acquainting you with my spiritual condition, to which I refer you; and fearing lest wrong may be done to the cause when I am in heaven, I think fit to leave a few words with my dearest love to all Christian friends.

1. Upon my trial it came to this, that the Judges said, *that all have been treason since 1642*, so that the Lords and Commons are not to meddle with the King. I said, *that I acted obedientially by order from the house of Commons, and the Commons being the representatives of the people cannot commit treason, for there can be no trial of all the people. And as for any force upon the House in 1648. they were the only judges of it and no inferiour Court can judge of the lawfulness or unlawfulness of their acts or orders.* But they said, all our Acts and Orders are treason. So that now it is brought to that it was in 1642.

2. I intend by God's assistance upon the Ladder to bear my testimony for Jesus Christ to all his Offices, and for a Gospel Magistracy and Ministry, and to speak something
so

so far as God shall enable, and will be permitted, for the good Old Cause, or righteousness and holiness. I can at present only leave my dear love and respects for you and my dear Sister, beseeching God, and not doubting but that we shall shortly meet in eternal glory. Company so spends me that I can write no more: I shall suddenly enter into the joy of the Lord, O blessed be his name, blessed be the Comforter, my soul is full of consolation. Farewel, farewel, *Renede in Paradiso.* Yours for ever,

John Cooke.

For my dear brother F.

Some Notes taken of a Sermon Preached by Mr. *Hugh Peters*, the 14th of *October*, 1660. (after his Condemnation) in the Prison of *Newgate*, wherein he was much interrupted, by the coming in, and going forth, of Strangers that came to see him, and the other prisoners, in the Room with him, and so was constrained to break off the sooner; And though they are but brief Heads, yet it's thought convenient here to insert them, for the better satisfaction of any, touching the frame of Mr. *Hugh Peters* at that time. This Discourse was from,

P S A L. 42. ver. 11.

Why art thou cast down, O my soul? and why art thou disquieted within me? Hope thou in God, for I shall yet praise him, who is the health of my Countenance and my God.

A Fter Analysing the Psalm, he Observed this Doctrine.

Doctrine, That the best of God's people are apt to be desponding.

This

This was the Man's case in the whole 88 *Psal.*

Also *David's* case, when he complained of the breaking of his Bones, &c.

This was *Christ's* case himself, when he cried out *My God, my God, why hast thou forsaken me.*

The Reasons why the best of God's people, are apt to despondencies, are,

First, *When something falls out from God more than ordinary, when God puts weight in Sorrow and Affliction, that makes it sinking; Although that Afflictions are heavy of themselves many times, yet it's the weight that God puts in Sorrow, that makes it sink us.*

Secondly, *Over-valuing our Comforts, putting too much upon Wife, Children, Estate, or Life it self, a man is apt to be cast down when he thinks of parting with them.*

Thirdly, *Our unpreparedness for sufferings, and afflictions that makes us despond. Alas I thought not of it say some, it's come unexpectedly upon me.*

Fourthly, *We are apt to despond when our Afflictions are many, when they are multitudes, when all is struck at together, Name, Estate, Relations, and life it self.*

Fifthly, *When Afflictions are of long continuance, a man can bear that Burthen a while, that he cannot stand under long.*

Sixthly, *when Afflictions fall upon the noblest part of man, which is his Soul; then are despondencies apt to come in.*

Seventhly, *When we have more Sense than Faith.*

Now it should not be so, God's people ought not to despond.

1. *Because it discovers impatience.*

2. *Because it discovers want of Faith, they lean not upon the Rock that will not fail them.*

3. *It discovers want of Wisdom, &c.*

4. *We should not be thus, because it gratifies the Enemy, who in such a case is ready to upbraid us, and say where is now their God? what is become of their God?*

Now what cure and remedies are there for desponding.

This Eleventh verse gives you two.

First, *Hope in God, Hope thou in God.*

Secondly,

Secondly, Faith is set on work, I shall yet praise him, &c.

But more particularly take these directions.

1. *Be careful of exercising Faith, for no condition of man supercedes his Faith, do all in Faith, pray in Faith, and hear in Faith, &c. Now what is the exercise of Faith but rousing up-on Christ, and staying on him, here I'll stick, if I perish I perish.*

The miscarriages of Christians, is either because they have no Faith, or else, because, if they have Faith, they give it not food to live upon; Faith must go to Christ, as the Liver Vein, and fetch blood and life thence. We quarrel that we have not Love, and Patience, and Meekness, &c. but the defect lies in our Faith, if we had more Faith, we should have more of all other Graces.

Now what is the Food of Faith?

Ans. Faith will not feed upon every Dish, not on a stalled Ox or fatted Calf; Prosperity is not Faith's food. But it will eat a Word, live upon Promises, these nourish Faith, *I will never leave thee, nor forsake thee, all things shall work together for good, and the like promises.*

2. *Be marvellously careful of things below, measure things not by sence, or by a day, but by Faith, and Eternity; we are troubled at the loss of this and t'other Creature, and Comfort, but what's the value of them, the over-valuing things is our mischief.*

3. *Go and tell the Lord Christ I have a defiled Conscience, and if thou dost not wash me I am undone for ever. See the necessity and worth of Christ; there must be something better to look at than what we lose for the present, something above Estate, and Life, and Relations, and Name. See the worth of Christ's blood, it's worth all the world, because what the blood of Bulls and Goats could not doe, his blood doth cleanse from all sin.*

4. *Keep close to the use of Ordinances much of our mischief bath come from neglects of this kind; the safety of a Christian lies in the enjoyment of Church-Communion, Psal. 27. 4, 5, and 6 Verses. One thing I have desired of the Lord, and that will I seek after, that I may dwell in the house of the Lord all the days of my life, &c. for in the time of trouble he shall*

shall hide me in his Pavillion, in the secret of his Tabernacle, shall he hide me, he shall set me upon a Rock; and now shall my head be lifted up above mine Enemies round about me, &c. *The greatest fears are dispelled there — you shall find before troubles pass over (for you expect some) it will be a hard matter to break Churches, they are so fast chained together, and yet there hath been marvellous miscarriages amongst Saints in their Church Relations.*

F I N I S.

He also during his imprisonment in the *Tower*, wrote some sheets of Paper to his Daughter, leaving them with her as his last Legacy, containing in it very much sound and wholesome advice as to her souls health. It carries with it such a favour as denotes it proceeds from a spirit that hath learned experience in Christ's School, and hath been acquainted sometimes with sun-shine as well as foul weather, it's too long here to be inserted, but if it be made publick by it self, doubtless the Experienced Reader will be no loser by perusing this Legacy.

Some Memorable passages of Mr. Hugh Peters, in his Imprisonment at Newgate, and at the time of his Execution at Charing-cross, October 16. 1660.

MR. Peters, as is well known, was exercised under a great conflict in his own spirit, during the time of his Imprisonment, fearing (as he would often say) that he should not go through his sufferings with courage and comfort, and said to friends, that he was somewhat unprepared for death, and therefore unwilling to die; something he said he had committed, and other things omitted, which troubled him, but though it was a cloudy and dark day with him for a season; yet the light of God's grace and favour would break forth at last.

And surely the favour of God did at the last appear, for a little before he went forth to Execution (as many can testify) he was well composed in his Spirit, and chearfully said,

said, I thank God now I can die, I can look death in the face and not be afraid.

As for that slanderous report which was took much received by good people as well as bad, to wit, that he was guilty of Uncleanness. A Friend coming to him in prison, put that question seriously and soberly to his soul, to which he replied, that he blessed the Lord, he was wholly clear in that matter, and that he never knew any woman but his own Wife.

A night or two before he suffered, two of the Episcopal Clergy, who as some report were the Kings Chaplains, came to give him a visit; they endeavoured to make advantage of the present temptations wherewith he was then assaulted, and to perswade him to a Repentance and Recantation of his former Activity in the Parliament cause, which they endeavoured to enforce upon him by a promise of pardon from the King, in case he would therein hearken to them. But though he was then much afflicted in his spirit, yet the Lord did help him to bear up with much courage against the insinuations of that sort of men, and told them he had no cause in the least to repent of his adhering to that interest; but rather, that he had in the prosecution thereof done no more for God and his people, in these Nations, and with civility dismissing those Visitants, he applied himself to some other Ministers then present, whom he judged more able to speak a word in season to him under these great Tryals, wherewith the Lord was then pleased to exercise him.

Being carried upon the sledge to Execution, and made to sit therein within the Rails at *Charing-cross*, to behold the Execution of Mr. *Cooke*. One comes to him, and upbraided him with the Death of the King, bidding him (with opprobrious language) to repent: he replied, Friend, you do not well to trample upon a dying Man, you are greatly mistaken, I had nothing to do in the death of the King.

When Mr. *Cooke* was cut down, and brought to be quartered, one they called Coll. *Turner*, called to the Sheriffs men, to bring Mr. *Peters* near, that he might see it, and by and by the Hangman came to him, all besmeared in blood,
and

and rubbing his bloody hands together, he (tauntingly) asked, come, how do you like this Mr. Peters, how do you like this work? to whom he replied, I am not (I thank God) terrified at it, you may do your worst.

When he was going to his execution, he lookt about and espied a man, to whom he gave a piece of gold (having bowed it first) and desired him to go to the place where his daughter lodged, and to carry that to her as a token from him, and to let her know *that his heart was as full of comfort as it could be; and that before that piece should come to her hands, he should be with God in glory.*

Being upon the Ladder he spake to the Sheriff, saying, Sir, you have here slain one of the servants of God before mine eyes, and have made me to behold it, on purpose to terrifie and discourage me, but God hath made it an Ordinance to me for my strengthening and encouragement.

When he was going to die, he said, *What, flesh, art thou unwilling to go to God through the fire and jaws of death? Oh* (said he) *this is a good Day, he is come that I have long looked for, and I shall be with him in glory,* and so smiled when he went away.

What Mr. Peters said further at his Execution, either in his Speech or Prayer, it could not be taken, in regard his voice was low at that time, and the people uncivil.

Some passages and occasional Speeches of Mr. Scot's before he came to Execution.

When he was in the Tower, a Relation sent to know how he did; To which he returned this answer, That he had been very ill all night, and had some Apprehensions that it might be unto death. But, said he, I was not at all displeased; for if it be the Will of God, that I may not live his Servant, I would die his Sacrifice.

The first day that he came to Newgate, some friends came to see him, and asked him how it was with him; he told them,

them, he was well; but he waited and much longed for a word of Peace from God: But (said he) I Bless God (though it is somewhat dark with me at present, and I know I have a very naughty heart) yet I have not one Temptation to desert *that good Cause*, which God hath so signally (many a time) owned.

The next day, which was the day Maj. Gen. *Harrison* was Condemned, some of his Relations came to him, and told him, They supposed he had heard what dismal Sentence was passed on him; And, O Sir, said one of them, my heart fails me to think how you will bear it. Why, said he, flesh and blood will recoil; But, blessed be God, I am not troubled at that; a fit of an Ague would cost a man more, I believe.

The day after he was Condemned himself, his Wife and other Relations and Friends came to him: O Sir, said some, how is it now? Why, said he, Blessed, O blessed Chains! I would not be without these Chains. Indeed, it was a very dark, dismal, cloudy morning, I was brought to be content to perish. Truly, I thought I could not plead at all, my soul was so sad, because God hid his Face: But I was resolved, said he, if I could have said no more, to tell the Court, *That the Cause was the Lords*; and the fault was not in the Lord, but my great personal unworthiness, that I could not assert it; And that though I did sink into the Bottomless Pit immediately, yet I durst not, no not for a World, but own that Cause, which God had often honoured. But, said he, the Lord for your sakes did help me to say somewhat; but, truly it was but pitiful. I thought if I might have been suffer'd, (although I have not slept, to speak of, these two night) I could have spoken three or four hours longer. And now, said he, as dark as it was in the morning, 'tis so bright, so quiet and calm, that truly I think, if I were to be executed to morrow, I could sleep all night as well as ever. But (lifting up his eyes) Lord, said he, I would not be too confident: O pardon thy servant. But, being in a very chearful frame, his Friends and Relations left him at that time, and, because of illness, could not visit him next day.

But

But on the next first-day of the Week, being with him, he told them he found an increased strength. That day about noon, the Warrant for Execution was signed; at which time, he was desirous to have a Reprieve gained, if possible: not (said he) that I expect Life; but methinks my Wedding Garment is not quite ready: a little more time, that I may, as a Bride, be ready trimmed. That evening it was told him, that Sir O. B. would speak with him the next morning; and some told him, it may be that would prove an hour of Temptation. Truly (said he) I bless God, I am at a point, I cannot, no, I cannot desert the Cause.

The next morning they two were together, the matter of their discourse I know not, but I remember when his Wife desired to go to O. B. that evening, to see if he would be her dear Husbands (or rather her) Mediator to his Majesty for his Life. It may be (said he) Sir O. B. may say, That I should confess guilt, and do the King some service. Prethee tell him, I would engage to live quietly; but for owning *Guilt*, that I cannot do: For to this day I am not convinced of any, as to *the Death of the King*, and that I went but too far, in asking the benefit of the *Proclamation*; and I cannot go any further, no not to save a Thousand Lives.

That evening came in two Ministers: one, or both of them, (after they had talked with him a good while) I heard them ask, *Whether he did acknowledge his Guilt?* for they believed his owning of that, would be the most likely (if not a most certain) means, to prolong his Life. To which he answered, that although he had often, and that with many tears (and he thought with some brokenness of heart) sought the Lord to convince him of it, if he had any *Guilt* in him, as to that particular Action, (for which he was then in Chains, and under Condemnation) for, said he, I would not for a World die with one Sin unrepented of: But, said he, Really, to this day I have no such Conviction. But, said the Doctor, *Sir, If any such do come in, will you tell us?* Yes, said he, I profess I will, if it come in at the last moment, even at the Gibbet, I will tell the World

of

of it. And it is observable, that some of his last words were, *That God had engaged him in a Cause, not to be repented of, I say, Not to be Repented of* —

The night before Execution, when he was in the Dungeon, he was (as he had been that day) some what sadder than at other times; And one asked him, if any particular thing lay on him? he said, no, But the Lord was pleased to suspend his Comforting presence: but, said he (with an humble boldness I would speak it) The Lord shall not put me off with any thing besides himself. After, having spent some hours in Prayer, as at other times, about midnight we left him, and his Fellows, that they might get a little rest, for the support of their natural spirits; and in three or four hours his Wife, Children, and many other friends returned. When we came, we found them praying: As soon as Col. Scroop had ended, Mr. Scot turned about, and opening his arms, he embraced his Wife, and one of his Daughters: Ah, said he, my dear ones, *God is good, he is come, he is come! I am full, I am full. O bless the Lord for me, and with me; O my soul, and all that is within me, magnifie the Lord.* By and by he went to prayer himself; and one would have thought he had been (as it were) in Heaven, his soul was so enlarged in blessing, praising and magnifying the God of his Salvation. O! said he to his Wife, *I would not change this dark Room for the best Star-Chamber under Heaven.* He desired his Friends and Relations would not be solicitous for his Body; but let them do what they pleased, and exercise what Cruelty they would; saying, it was meet it should be so: And that the dead Bodies of the Witnesses must be unburied, that the Scriptures might be fulfilled.

Some part of his prayer was, to bless the Lord, That (as the Psalmist said) though he came in there weeping, and fearing that he had not yet been bearing precious seed, yet now they were returning, rejoicing and triumphing, and carrying their sheaves with them. Call us not (said he) *Marahs* (as she once said) but call us *Naomies*: for we came in hither (some of us) *empty*; but we are going out *full*: The Lord hath not writ *bitter* things, but good of us; for this is glorious Grace, *That we are counted worthy to suffer*

for GOD and His CAUSE. Oh! What shall We render to the Lord? We will take the Cup of Salvation and call upon the Name of the Lord. Oh our Souls, bless the Lord! And we do with our Souls bless Thee. That we have an Eternity to bless Thee in; for no less will satisfy our Souls. And now, O blessed and glorious God, shall we be among thy *Worthies? If possible, let us attain to the first Three; but if we attain not to so glorious a Testimony as that, yet, O Lord, let us be among thy Worthies. We desire to glorify thy great and blessed Name, that Thou hast in any measure enabled us to encourage our hearts in the Lord our God, at such a time as this, when Eighty is (as it were) in the Flames; and the People speak of worse than stoning us. When some spake of the Reproaches of the People, he said, he accounted that his honour.

* Meaning M. G. H. Mr. Carew and Mr. Cooke.

Mr. Scot's Speech upon the Ladder.

GENTLEMEN, I stand here a Spectacle to GOD, to Angels, and Men: To GOD and Angels to whom I hope I am shortly a going. And now to you I owe it; to God, and the Nation, and my self, to say something concerning each. For my self, I think it may become me to tell you how and why I came hither: and something in the general, concerning my Capacity. In the beginning of these Troubles I was (as many others were) unsatisfied. I saw Liberties and Religion in the Nation, in great danger, to my best apprehension; I saw the approaches of Popery in a great measure; coming in upon us: I saw——

Upon which the Sheriff interrupted him in these words:
If you will betake your self to prayer, you may.

Mr. Scot replied, I shall not speak to reproach any——

The

The *Sheriff* interrupted him again, saying, *You have but a little time, Mr. Scot, Therefore betake that little time to prayer.*

Mr. Scot replied, I shall speak——

The *Sheriff* interrupted him again, saying, *I beseech you Sir, betake your self to prayer.*

Mr. Scot said, it may become me to give an account of my self, because——

The *Sheriff* interrupted him again, saying, *It doth not become you to speak any such thing here, Therefore I beseech you betake your self to prayer ; it is but a little time you have to live : you know, Mr. Scot, that is the most needful thing.*

Mr. Scot replied, 'Tis so——

The *Sheriff* interrupted again, saying, *Sir, But when you came upon the Stage, you deprived your self very much.*

Then said Mr. Scot, I thought to tell you how I came hither——

Here the *Sheriff* interrupted again (or else some one besides the *Sheriff*) and spake to this effect. *Every body knows, that——*

Mr. Scot said, Sir, 'tis hard that an Englishman hath not liberty to speak——

The *Sheriff* interrupted again, saying, *I cannot suffer you to speak any such thing.*

Mr. Scot said, I shall say no more but this, That it is a very mean and bad Cause that will not bear the words of a dying Man : it is not ordinarily denied to People in this condition——

The *Sheriff* interrupted again, saying, *Sir, you had a fair Trial, and you were found guilty.*

Mr. Scot replied, 'Tis according to my mind to speak what may be said——

Here the Under-Sheriff interrupted, saying, *It hath been denied unto your Predecessors, and will be denied unto you.*

Then he prayed as followeth.

HOly Lord God, the great and glorious God of Heaven and Earth ; King of Nations, and King of Saints : in both which capacities, thy poor and unworthy Creature comes now to hear his Witness in this great spectacle, before Thee, Angels and Men, O Lord, were it not for Sin, none of these things had befallen this Nation, nor my unworthy self : We have all transgressed and gone astray from thee by a perpetual back-sliding ; even all, of all sorts, conditions, ranks and orders of men : And among them none, none more than thy poor unworthy Creature, who acknowledgeth the same here before Thee, in the face of Heaven, and in thy Presence, to which he is very shortly a going. That glorious Grace, which thou hast been pleased to afford unto his soul in it. Thou art gone to the highest extent of mercy that ever was shewed to any of the sons of men. Thy poor servant doth acknowledge himself to be the greatest of Transgressors. And thy glorious Grace is magnified above all thy Name, in what Thou hast done for thy poor Creature. But Lord, so it is, because such is thy good pleasure, such was thy design from Eternity ; through or in the great Transactions that was between Thee, and Christ thy blessed Son, and our blessed Saviour ; that Thou shouldest in thy dispensation, in the governing of thy Church in the World. That thou shouldest glorifie thy Free-grace in pardoning of the Sins, and in the Salvation of some of lost Mankind which was the great Master-piece of thy Love, that thou shouldest chuse out of poor lost Mankind one or other, it is of admirable and incomprehensible mercy : And that thou shouldest chuse thy poor Creature as one in the number, is matter of Adoration, Admiration, is matter of Eternal Extasie, and is matter of Thanksgiving for ever : And this is the Comfort of his poor Soul, that he shall have an Eternity with thy self ; Thou hast so assured him, that he shall be blessing, honouring and magnifying of Thee among a Company of Saints and Angels, and the Souls of just Men made perfect. O blessed Lord, Thou hast called him forth as a publick Spectacle to some, in a condition of Shame and Reproach ;

to others, of Comfort; and to thy blessed Self, as one that is a Witness for Thee, that hath served Thee with all faithfulness in his trust and publick Capacity and Imployment. O Lord, thy Dispensation to thy poor Creature hath been wonderful gracious, and merciful; and he must say, to the praise of thy Free grace —

Here the Hangman stooping down to take Drink, which was reached up to him upon the Ladder, interrupted him: Upon which Mr. Scot said, prethee let me alone, I have not done; then proceeded in Prayer as followeth.

—That this very Condition to which he is now brought, he acknowledgeth, is the Answer of his Prayer before his going out of England. Thou knowest Lord, he did many times in prayers and tears seek thy blessed Majesty, for Counsel and for Advice: whether it were his duty to stay and suffer, or to shelter himself abroad: And if it were thy will to take more honour to thy self, by his Suffering than his Living; thou wouldest be pleased to remand him back again, and bring him hither. And he hath observed thy Providence checking of his way, and in preserving him all along until he came to this. O blessed Lord, thy poor Creature doth acknowledge, that thy ways to his poor Soul, have been of wonderful grace and mercy. It was a great mercy to him, that having had (by reason of many sinful temptations, and many incumbrances: and many incessant Businesses in the World, whereof he hath been a perpetual drudge) many years past; and he hath not had the conveniency, though his duty: The Lord knows he had not the conveniency, nor the heart, so to improve and keep his own Vineyard, while he had been looking after, or keeping others Vineyards: Thou didst therefore all along (while he was abroad) give sweet opportunities, and precious seasons, (while he was abroad) of seeking thy face, and studying his Souls good concerning Eternity, and the Eternal pleasure by thy holy will: and he bleisseth thy name, that thou hast been pleased to open to him, both the Scripture and his understanding; and so to answer the one by the other, as that he is (through the

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grace

grace of God) comfortably perswaded, that his eternal estate is out of hazard. But, O Lord, thou hast been pleased, all the while that his Condition hath been doubtful, to make his Comforts to his poor Soul doubtful also; sometimes Fear, and sometimes Hope, have been mixed: Again, and again wanting those Consolations that might support his Soul to such an issue. But blessed be thy glorious Name, the great God of Heaven and Earth, he hath been pleased to bear him witness to himself, to Angels, and to all that hear me this day, this very day, thy poor Servant that now stands to suffer, had Joy and much Consolation from God, and from his Cause, more than ever he had before: I say again, to the praise of the Free-Grace of God, I bless his Name, he hath engaged me in a Cause not to be repented of; I say, in a Cause not to be repented of — —

Here the Sheriff interrupted him, saying, Is this your Prayers, Mr. Scot? desiring him to forbear those kind of Expressions. Others also told him, that he contradicted himself, and spoke Blasphemy.

Then Mr. Scot said, I shall say no more but this; The Lord I do acknowledge, that this very Morning in the Dark Chamber, I had very much of the presence of God; and from thence I take Consolation to my self, that his Spirit is with me, and that he hath sealed unto my Soul the Decrees of Heaven, at least perswaded my Soul, that it will be well with me, and that I am out of all danger as to my Eternal Condition; and that I shall live and reign with him there, where all Sin shall be done away, which is the growing glory of my Soul, and all tears wipt away also; In the mean time I pray thee, O Lord, that thou wouldest remember England, and remember thy Cause in England; and remember me with the Joys of thy Salvation in the instant of my departure; O Lord, it is a narrow entrance, it is a strait passage, it is an entrance into Eternity. O Lord thou hast once to day shewed me something beyond it, something of the glory of God; I pray thee forsake me not while I am here and sensible, or afterwards in the passage of my Soul; to thee I leave it, and to thy Providence, and do acknowledge thy goodness to my Soul, in fitting me to receive

receive that good which thou in thy infinite pleasure, dost think fit for me; And therefore, O Lord, into thy hands I commend my Spirit. Lord, I desire to have some more testimony of thy Love, if it be thy blessed will: It is enough that I live upon what I had to day; but if it be agreeable to thy holy will, I would honour and eternally bless thee, if thou wouldst be pleased to shine upon me, with some more particular immediate discoveries of thy presence; but not my will but thy will be done. The Lord be pleased to settle the Nation in Peace, and in the power and purity of Religion, and thy Ordinances in Purity: And, Lord, for thy Son, that is the darling of thy Soul; Be thou pleased to give him a glorious entertainment in the World; and let the Kingdoms of the World, become the Kingdoms of Jesus Christ. Lord, thou hast a Cause in the World, dear unto thee, I pray thee own it; though it may not be owned in all places, and by all persons, yet Religion is the Interest of them all. O Lord Remember the Price of Blood, that hath been shed for the purchasing of the Civil and Christian Liberties. And remember thy Enemies, that are not incorrigible Enemies to thy Truth and Holiness; and give them understanding to see their Error, and to turn to thee; a heart broken, and with Humiliation, that they may seek God with their whole heart; that they may be a Holy or Immanuel Nation, A Chosen Generation, A peculiar People, zealous of good Works, careful to shew forth the virtue of him that hath Called them from Death to Life. The Lord call in all that belong to the Election of Grace speedily, into that Number; Let no Weapon formed against thy Church prosper; But Lord Remember Zion, if it be thy good pleasure, and repair the Walls of thy Jerusalem. O Lord, thy CAUSE lies near the hearts of thy People; And I bear thee Witness, that I have this Income from thee, as the Return of their Prayers; And that we are Supported to bear Witness for thee very chearfully and with satisfaction. I desire to be found of thee in Jesus Christ: I do now abhor all my Sins, and renounce my Services; and do account them all as Dung. Lord thou knowest, I have desired to live, that I might serve thee better, and love thee more; but that I may be with thy self,

Oh it is infinitely better: and to confirm that testimony that is concerning thy glorious Will; And thy Will be done in Earth, as it is in Heaven, by me and all thine; from henceforth, and for evermore, Amen.

Some Memorable Passages of Col. Adrian Scroope, after his Condemnation, and in his Imprisonment at Newgate, which (though they are but few) may discover the excellent Christian Frame of his Heart, and how he was born up under so great Sufferings.

After his Condemnation, one of his Children hanging upon him, and weeping over him, he said, Peace, Child, peace, be still, not a word; thou hast a blessed Portion: Who would be troubled to die? for can any one have greater honour, than to have his Soul carried up to Heaven, upon the Wings of the Prayers of so many Saints?

When the Jaylor called him, and Mr. Scot, Mr. Jones, and Mr. Clement, to go to the Dungeon, saying, Gentlemen, you must go to the Room where Mr. Harrison was. Says Colonel Scroop, Must we all go? He replied, Yes. At which, laying his Hand on his Breast, and elevating his Eyes, with a serious Countenance, said, Blessed be God that we are not parted.

As he sat at Dinner he spoke to a Minister that was with them, saying, I would speak it for the glory of God's Free-grace, and the comfort of you all, That my sins are all pardoned; not one unpardoned: And God hath loved me with an everlasting love; and in the strength of this, will I go to Heaven.

Speaking to some Friends that came to visit him, said, I desire all the People of God, to look at the Lord's hand in this Dispensation, and own his Sovereignty; speak well of him, whatever he doth; lie at his Feet with your
Mouths

Mouths in the Dust ; and live more in love and unity one with another.

A tall Gentleman coming into the Dungeon to see Col. *Scroop*, the Night before he died, said to him, Uncle, I am sorry to see you in this condition, and would desire you to repent of the Fact, for which you are brought hither, and stand to the King's Mercy ; and more words to the same effect. Whereupon Col. *Scroop* put forth his Hand, and thrust him from him, using these words, AVOID SATAN.

When the time approached for his Execution, Mr. *Scot* and Mr. *Clement* were first carried away in the Sleds, and the same Sleds was afterwards to come and carry Col. *Scroop*, and Col. *Jones* ; during that time, says Col. *Scroop*, Well Brother *Jones*, do you spend your time as the Lord shall direct you, I intend to take a little Sleep, for slept not well the last Night ; and my Countenance is not so fresh as I would have it. Thereupon he laid him down, and slept so soundly, that he snored very loud, and so continued until the Sled came for him : whereupon, being awakened, he riseth up ; and a Friend taking him in his Arms asked him how he did ? he answers, Very well, I thank God, never better in all my life.

And now, saith he, *will I wash mine hands in Innocency, So will I compass thine Altar, O Lord* : And so with great cheerfulness went to Execution.

Colonel *Adrian Scroop*, and Colonel *John Jones* (two comely ancient Gentlemen) were both drawn upon that Sled which carried Mr. *Scot* ; and being come to *Charing-Cross*, the place of Execution, Col. *Scroop* was first brought up to the Ladder, where he spake as followeth.

Col. Scroop's Speech at Execution, Octob. 17. 1660.

YOU see an Object here, that hath been in a better place ; but howsoever the Lord Jesus Christ hath sent me to this place, that in this place I should die. I have no Animosity

Animosity nor Malice against any man, nor ever had I; neither have I any evil will to those that brought me hither, nor to the Jury that found me guilty, nor Judges that passed Sentence; nor to him through whose means I was brought here to suffer. I say, once more, the Lord forgive him, I shall not name him; for I come not hither to reflect upon any mans person.

I will not tell you what my Breeding hath been, because it is not good for any man (especially at such a time as this) to boast of his Linage nor Breeding; but this I shall say, that I was born and bred a Gentleman.

As for my Carriage, it may be some that looks upon me here, knows what it hath been: Howsoever the Lord knows all, and the Lord God is Judge of all, and he will judge; I shall submit my self to his Judgment, which is a Righteous Judgment. The Judgment of men may go wrong, but Gods Judgment is right, I shall submit to his way. The Lord he is the *Rock of Ages*, and my support under this great Weight that is now upon me: I look up to him alone, the Lord Jesus Christ is my Saviour and my Redeemer; when going into his Arms, blessed be his Name, I follow him, he is gone before me the same way. Therefore it is no reproach or shame to follow the Lord Jesus Christ, to die in his Cause; for that is it which I judge I am now going to do.

That which I do desire of you (here are a great many Spectators both on the right hand and on the left) is That this day may represent to you, the general day of the Judgment of Christ, where you must appear, and there every man must receive according to their works: And at that time it will be known: I say, at that time it will be known and seen, whose works are righteous, and whose are not: Therefore I would with you, and desire you, to judge charitably of me.



